

ALLEN OWEN
Mayor

JERRY WYATT
Mayor Pro Tem
Councilmember at Large Position 1

DANNY NGUYEN
Councilmember at Large Position 2



YOLANDA FORD
Councilmember District A

DON SMITH
Councilmember District B

ROBIN ELACKATT
Councilmember District C

FLOYD EMERY
Councilmember District D

CITY COUNCIL MEETING AGENDA

Notice is hereby given of a meeting of the City Council of Missouri City to be held on **Monday, January 6, 2014, at 7:00 p.m.** at: **City Hall, Council Chamber, 2nd Floor**, 1522 Texas Parkway, Missouri City, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS AND RECOGNITIONS

- (a) Administer the oath of office to certain members of the City of Missouri City's tax increment reinvestment zones.
- (b) Recognize the Quail Valley Fund for donations to Missouri City.

4. PUBLIC COMMENTS

An opportunity for the public to address Council on agenda items or concerns not on the agenda--those wishing to speak must complete the orange comment card, present the comment card to the City Secretary prior to the beginning of the meeting, and observe a three-minute time limit.

5. STAFF REPORTS – There are no Staff Reports on this agenda.

6. CONSENT AGENDA

All consent agenda items listed are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a councilmember so requests; in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

- (a) Consider approving the minutes of the special and regular City Council meetings of December 16, 2013.
- (b) Consider an ordinance amending Chapter 70, Offenses, of the Missouri City Code; providing rules and regulations related to sex offenders; providing a penalty; and consider the ordinance on the second and final reading.
- (c) Consider awarding a contract for the publication of legal notices and advertising.
- (d) Consider awarding a contract for ground maintenance services.

- (e) Consider authorizing the purchase of polyurethane foam materials and labor through the interlocal agreement with Fort Bend County for cooperative purchasing.

7. PUBLIC HEARINGS AND RELATED ACTIONS

(a) Zoning Public Hearings and Ordinances

- (1) Public hearing to receive comments for or against a request to amend the regulations and restrictions pertaining to PD Planned Development District No. 55 to allow for outdoor storage and to amend the Comprehensive Plan, as applicable; and consider the ordinance on the second and final reading. The subject site is located north of the Tamlyn building, south of Stafford Road and east of Pike Road at the city limits of the City of Missouri City, Texas.

- (b) Public Hearings and related actions** – *There are no Public Hearings and related actions on this agenda.*

8. APPOINTMENTS

- (a) Consider appointing a member to the Board of Directors of the Fort Bend Subsidence District Board for a two-year term beginning on February 1, 2014, and ending on January 31, 2016.

9. AUTHORIZATIONS

- (a) Consider awarding a contract for construction improvements for Mustang Bayou Water Plant Numbers 1 and 2.
- (b) Consider authorizing the City Manager to execute the Termination and Revocation of the Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association, Inc.
- (c) Consider authorizing staff to represent the City of Missouri City's interests at the next 2014 meeting of the Brightwater Commercial Development Maintenance Association, Inc.

10. ORDINANCES

- (a) Consider an ordinance amending Chapter 18, Businesses, of the Missouri City Code; amending the rules and regulations related to food service regulations; providing a penalty; and consider the ordinance on the first of two readings.
- (b) Consider an ordinance amending Chapter 18, Businesses, of the Missouri City Code; amending rules and regulations for metal recycling and crafted precious metal dealers; providing for a penalty; and consider the ordinance on the first of two readings.

11. RESOLUTIONS

- (a) Consider a resolution in support of the Brazos River Authority study of the lower Brazos River.
- (b) Consider a resolution authorizing the purchase of golf carts and the execution of a lease agreement for the financing of golf carts.

12. CITY COUNCIL ANNOUNCEMENTS

Discussion, review, and possible action regarding a meeting or activity of one or more of the following entities (each entity refers to a City of Missouri City entity unless otherwise indicated):

Bond Exploratory Committee, Charter Review Commission, Community Development Advisory Committee, Construction Board of Adjustments, Electrical Board, Parks Board, Planning and Zoning Commission, Tax

Increment Reinvestment Zone Boards, Fort Bend Chamber of Commerce, Houston-Galveston Area Council, Fort Bend Regional Council, Texas Municipal League, Fort Bend County, Harris County, Gulf Coast Building and Construction Trades Council, Mayor's Youth Commission, Budget & Finance Committee, Fort Bend Leadership Forum, Fort Bend County Drainage District, Communications Committee, Community Development Committee, Infrastructure Services Committee, International & Domestic Economic Development Committee, Long Range Planning Committee, Missouri City Police and Fire Auxiliary, Texas Parkway Alliance, Missouri City Juneteenth Celebration Foundation, Fort Bend County Mayor and Council Association, METRO, Fort Bend Independent School District, Greater Fort Bend Economic Development Coalition, Transportation Policy Council, Technical Advisory Committee, Veterans Memorial Committee, Missouri City Recreation and Leisure Local Government Corporation, Missouri City Development Authority, Greater Houston Partnership.

13. CLOSED EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Chapter 551 of the Texas Government Code.

14. RECONVENE

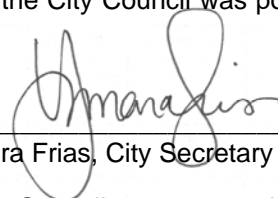
Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

15. ADJOURN

In compliance with the Americans with Disabilities Act, the City of Missouri City will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Maria Gonzalez, City Secretary, at 281.403.8686.

CERTIFICATION

I certify that a copy of the January 6, 2014, agenda of items to be considered by the City Council was posted on the City Hall bulletin board on January 3, 2014, at 4:00 p.m.



Yomara Frias, City Secretary Department

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ day of _____, 2014.

Signed: _____ Title: _____



**Council Agenda Item
January 6, 2014**

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS AND RECOGNITIONS

(a) Administer the oath of office to certain members of the City of Missouri City's tax increment reinvestment zones.

(b) Recognize the Quail Valley Fund for donations to Missouri City.

4. PUBLIC COMMENTS

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5. STAFF REPORTS – *There are no Staff Reports on this agenda.*

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Councilmember District A

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Councilmember District B

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FLOYD EMERY
Councilmember District D

CITY COUNCIL SPECIAL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in special session **Monday, December 16, 2013**, at **6:00 p.m.** at: **City Hall, 2nd Floor Conference Room** behind the Council Chamber, 1522 Texas Parkway, Missouri City, Texas, to consider the following:

1. CALL TO ORDER

Mayor Owen called the meeting to order at 6:01 p.m.

Those also present: Mayor Pro Tem Wyatt, Councilmembers Nguyen, Smith, and Emery; City Manager Broussard, City Attorney Kelley, City Secretary Gonzalez, Assistant City Manager Atkinson, and Assistant City Manager Elmer. Interim Police Chief Berezin, Assistant Public Works Director Valiante, Police Captain Williams, Detective Heard, Detective Tippit, Assistant Department Director Marvin, and Assistant City Attorney Dang. Also present: Frank Hester. Those absent: Councilmembers Ford and Elackatt.

2. DISCUSSION/POSSIBLE ACTION

(a) Discuss recommendations of the Bond Exploratory Committee.

Assistant City Manager Elmer presented an overview of the recommended drainage improvements. The current focus is on the Willow Waterhole Watershed for which is estimated to cost \$6.5 million. Elmer presented an overview on the City's master plan history, noting that in 1985, a study formulated a drainage plan which included channel improvements and detention basins needed to meet future development conditions thus forming the basis for the Interlocal Agreement between the City and Stafford. Ten years later, in 1995, a study provided recommendations to divert Sub Watershed C south to Cangelosi Watershed and the diversion was completed along with TxDOT intersection improvements project at US90A/Beltway 8. During the present year, the Master Drainage Plan updates had approximately 198 acres of land currently undeveloped in the watershed. Of those acres, 43 acres were the City of Missouri City and 154 acres in Stafford. Out of the 198 acres, 13 acres can be developed without having a negative impact to the watershed. In order to develop additional acres, they must either construct additional detention at the TXI site or divert a 95 acre tract just north of the Sub-watershed C south to Cangelosi, which would require upsizing the culvert under Highway 90-A. Council discussed the City of Stafford's participation in these recommended improvements. Elmer stated he has not presented the results as they are not finalized yet.

Fire Chief Sander presented an overview on the proposed Fire Station #6. Sander noted the Fire Department goals are to obtain Insurance Services Office (ISO) Class 1 Rating; meet nationally accepted standards; decrease preventable injuries and fire losses; recruit qualified applicants, increase diversity, and retain employees; and, prepare the City to respond, mitigate and recover from disasters. Sander noted the primary factors for determining the need for new fire stations are the Insurance Services Office (ISO) Standard. The National Fire Protection Association (NFPA) ISO is the grading of fire protection capabilities of a community on a scale of 1 to 10 with 1 being the best. Missouri City currently rated as a 3. The NFPA standard is to respond to 90-percent of emergencies in less than 5 minutes with 4 minutes of travel time. In 2012, the City met the standard in 34-percent of responses. The average response time was 6 minutes with 29 seconds.

Mayor Owen inquired the best location for the new fire station. Sander stated the consultant took into consideration Missouri City's extraterritorial jurisdiction and City districts, which determined Lake Olympia Parkway and Village Brook Drive or Waters Lake Boulevard and Scanlan Trace would be the best location for this fire station. Sander stated the fire station cost includes \$5 million to construct, having 12 Firefighters (four per shift) and an estimated cost of \$1.6 million each year to maintain staff and operations of the facility. Councilmember Emery inquired if the amount allocated included the cost of land for the station. Sander stated it was included.

Assistant City Manager Elmer presented an overview on the recommended transportation improvements. Elmer stated the added capacity projects are based on a five-year Fort Bend Mobility Bond program of projects which requires the City to match funds. The estimated \$8.2 million is needed to design and construct projects utilizing mobility funding. Some of the projects included in the estimated \$8.2 million are: Independence Boulevard Segment 1 improvements from Staffordshire Rd. to Moore Rd.; Independence Boulevard Segment 2 improvements from Moore Rd. to S. Revolution Way; Staffordshire improvements from Scanlin to Court; Knight Road extension from Toll Road to McKeever; Glenn Lakes Boulevard Bridge over Oyster Creek; and, Glenn Lakes Boulevard Bridge Oyster Creek Tributary.

Elmer noted the County recommended two projects Staff will advise the City should not participate in. Those projects are for safety improvements along Watts Plantation from Sienna Parkway to Knight Road and the extension of the toll road from Hurricane Lane to Chimney Rock. Under the Pavement Maintenance and Management Program, it has been identified that \$118 million worth of maintenance projects are needed to bring lowest rated streets up to par. Staff recommends an upgrade for landscaping along the medians and monuments signs. Elmer stated that the Bond Exploratory Committee recommended about \$13 million only leaving \$3 million for maintenance. Council must consider the revised estimated from the County's \$8.2 million Mobility Bond Project, as oppose to the \$7.5 million for the added capacity projects and the \$124 million needed for maintenance. Elmer noted the amounts are different from what was presented to Bond Exploratory Committee because now the City is in receipt of the final numbers in from FBC Mobility Bond Project. The original amount presented to the Committee was \$7.5 million.

3. CLOSED EXECUTIVE SESSION

After proper notice given pursuant to the Texas Open Meetings Act, the City Council went into Executive Session at 6:50 p.m. regarding:

Texas Government Code, Section 551.071 – Consultation with attorney to seek or receive legal advice regarding pending or contemplated litigation, a settlement offer, or on a matter which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act: sex offender ordinance.

4. ADJOURN

No action was taken. The special City Council meeting adjourned at 7:00 p.m.

ATTEST:

Allen Owen, Mayor

Maria Gonzalez, City Secretary

ALLEN OWEN
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JERRY WYATT
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Councilmember at Large Position 1

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Councilmember at Large Position 2



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CITY COUNCIL MEETING MINUTES

The City Council of the City of Missouri City, Texas, met in regular session on **Monday, December 16, 2013**, at the City Hall, Council Chamber, 2nd Floor, 1522 Texas Parkway, Missouri City, Texas, at **7:00 p.m.** to consider the following:

1. ROLL CALL

Mayor Owen called the meeting to order at 7:05 p.m.

Those also present: Mayor Pro Tem Wyatt, Councilmembers Nguyen, Smith, and Emery; City Manager Broussard; City Attorney Kelley and City Secretary Gonzalez. Absent: Councilmember Ford and Elackatt.

2. The PLEDGE OF ALLEGIANCE was led by the Missouri City Police Department Honor Guard.

3. PRESENTATIONS AND RECOGNITIONS

Mayor Owen recognized Sugar Land Skeeters as well as other entities for partnering with the City on Missouri City Night with the Skeeters. Customer Relations Specialist II Nixon and Media Relations Specialist Stottlemeyer presented on the HEB Healthy Community Challenge award in which the City won third place. The Director of Parks and Recreation Foos presented on the 2013 Snowfest Festival.

There were no **PUBLIC COMMENTS** or **STAFF REPORTS**.

6. CONSENT AGENDA

- (a) Consider approving the minutes of the special and regular City Council meetings of December 2, 2013.
- (b) Consider the second and final reading of an ordinance of the City of Missouri City, Texas, to rezone an approximate 22.184-acre tract of land from LC-2 local retail district, in part, and LC-3 retail district, in part, to R-2 single-family residential district and to amend the Comprehensive Plan, as applicable. The subject site is located north and east of Colony Lakes residential subdivision, west of Olympia Center retail shopping center, northwest of Oilfield Road, and southwest of State Highway 6.
- (c) Consider the second and final reading of an ordinance of the City of Missouri City, Texas, for a Specific Use Permit-Places of Assembly and to amend the Comprehensive Plan, as applicable. The subject site is located north of Watts Plantation Road, north of the Estates of Silver Ridge residential subdivision and west of Knights Road.
- (d) Consider the second and final reading of an ordinance of the City of Missouri City, Texas, for a proposed amendment to Section 4, Definitions, and Section 7, Use Districts, of Appendix A, Zoning Ordinance, of the Missouri City Code, to provide rules and regulations relating to pawnshops.
- (e) Consider the second and final reading of an ordinance of the City of Missouri City, Texas, for or against a proposed amendment to Section 4, Definitions, Section 9, Supplementary District Regulations, and Section 15, Specific Use Permits, of Appendix A, Zoning Ordinance, of the Missouri City Code, to provide rules and regulations relating to credit access businesses.
- (f) Consider awarding a term contract for fire resistant uniforms.

- (g) Consider authorizing a plat for the Fire Station No. 5 site conveying an access easement to Sienna Plantation Municipal Utility District No. 1.

Councilmember Emery moved to approve the Consent Agenda pursuant to recommendations by City Staff. Councilmember Nguyen seconded. **MOTION PASSED UNANIMOUSLY.**

Agenda item 6(f) awards a term contract to Ad Vision for the unit prices proposed and authorize the City Manager to exercise the renewal options when in the City's best interests.

Agenda item 6(g) authorizes a grant of the dedicated easement to Sienna Plantation Municipal Utility District #1 for accessing their facility behind Fire Station #5.

7. PUBLIC HEARINGS AND RELATED ACTIONS

(a) Zoning Public Hearings and Ordinances

- (1) Public hearing to receive comments for or against a request to amend the regulations and restrictions pertaining to PD Planned Development District No. 55 to allow for outdoor storage and to amend the Comprehensive Plan, as applicable; and consider the ordinance on the first of two readings. The subject site is located north of the Tamlyn building, south of Stafford Road and east of Pike Road at the city limits of the City of Missouri City, Texas.

Public hearing opened at 7:29 p.m. Senior Planner Thomas presented an overview on the request to amend Planned Development District No. 55 to allow for outdoor storage and to amend the Comprehensive Plan. Thomas noted the Planning and Zoning Commission forward a positive recommendation. Thomas also added the amendment includes a request for polycarbonate multiwall sheets in order to allow the flow of natural light in industrial sized buildings.

Robert Lay-Su, the developments architect, spoke in regards to this item. Mayor Owen inquired what will be stored behind the building. Mr. Lay-Su stated the policy of their client has not leased their facilities to maintenance type of facilities. At the present time, they are contemplating a client that is a machine shop which will need to have overhead cranes inside of the building for the purpose of inventory; however, materials will be stored outside. Bill Hall, Bearden Development, noted the storage location will be next to a detention pond and this is the type of business which can be managed at this location.

With no further comments, Mayor Pro Tem Wyatt moved to close the public hearing at 7:37 p.m. and approve the ordinance. Councilmember Nguyen seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Public Hearings and related actions** – *There are no Public Hearings and related actions on this agenda.*

There were no **APPOINTMENTS.**

9. AUTHORIZATIONS

- (a) Consider authorizing the execution of an interlocal agreement between Fort Bend County and the City of Missouri City for fire protection services.

Councilmember Smith moved to authorize the execution of the agreement. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Consider authorizing the purchase of a new fire truck through the Houston-Galveston Area Council cooperative purchasing program.

Fire Chief Sander stated Staff is requesting a new fire truck through the Houston-Galveston Area Council cooperative purchasing program in the amount of \$953,754. The fire truck housed in Fire Station No. 2 will be reassigned to Fire Station No. 3 on Texas Parkway.

Councilmember Nguyen moved to authorize the purchase of a new fire truck through the Houston-Galveston Area Council cooperative purchasing program. Councilmember Smith seconded. **MOTION PASSED UNANIMOUSLY.**

- (c) Consider awarding a contract for golf carts.

Golf Course Manager Stittleburg spoke in regards to the additional golf carts needed and recommends the contract be awarded to EZGO for 50 golf cars for 48 months.

Councilmember Emery moved to award a contract for golf carts. Councilmember Smith seconded. **MOTION PASSED UNANIMOUSLY.**

- (d) Consider authorizing the City Secretary to implement language standards for elections.

Councilmember Nguyen inquired if the translation of English ballots to Vietnamese or Chinese has been requested. Assistant City Attorney Stults stated federal law provides that the City of Missouri City shall provide voting materials in Spanish, Vietnamese, and Chinese based on its location within the covered political subdivisions of the State of Texas, Harris County, and Fort Bend County. Pursuant to Section 203 of the Voting Rights Act, codified as 42 USC 1973aa-1a, a covered political subdivision must provide voting materials, including registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, in certain languages in addition to English. A covered political subdivision is one in which more than 5 percent of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient

Fewer than 5 percent of the population of the City are Chinese, and fewer than 5 percent of the population of the City are Vietnamese. City Attorney Kelley stated the City Secretary has never received a request for any voting materials, including materials used prior to an election such as notices, to be translated into Chinese or Vietnamese. She stated it is Staff's recommendation to eliminate the Vietnamese and Chinese translations and keep the Spanish translation of English voting material.

Councilmember Nguyen moved to remove the Vietnamese and Chinese translation of election material. Mayor Pro Tem Wyatt seconded. **MOTION PASSED UNANIMOUSLY.**

10. ORDINANCES

- (a) Consider an ordinance amending Chapter 70, Offenses, of the Missouri City Code; providing rules and regulations related to sex offenders; providing a penalty; and consider the ordinance on the first of two readings.

Interim Police Chief Berezin stated this ordinance would regulate sex offenders who move within 2,000 feet of child safety areas in the City including parks, playgrounds, private recreational facilities, public swimming pools, schools, video arcades, and youth centers.

Councilmember Smith moved to approve the ordinance. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Consider an ordinance of the City of Missouri City, Texas, amending the General Budget for the Fiscal Year beginning July 1, 2013, and ending June 30, 2014, transferring various appropriations among accounts; appropriating supplemental revenue to various fund accounts; authorizing the appropriate City Officials to take steps necessary to accomplish such transfers; making certain findings; containing certain provisions relating to the subject; and consider the ordinance on the first and final reading.

Mayor Pro Tem Wyatt moved to approve the ordinance. Councilmember Nguyen seconded. **MOTION PASSED UNANIMOUSLY.**

11. RESOLUTIONS

- (a) Consider a resolution authorizing the execution of a first amended tax abatement agreement by and between the City of Missouri City, Texas, Allied Fitting, L.P., FWP 14623 LLC, and FWP Properties LLC pertaining to certain personal property to be located on Reserves 10, 11, 12, 13, 14, and 15 of the Lakeview Business Park subdivision located in Reinvestment Zone No. 6.

Economic Development Director Esch presented an overview on the previous tax abatement agreement. As the company has moved forward with planning, they have added additional property allowing them to build a bigger facility than they had anticipated. Esch noted the additional land purchased in the park was not included in Reinvestment Zone #6. City Council had adopted an ordinance expanding Reinvestment Zone No. 6 to include the additional land on October 21, 2013. Esch stated a number of entities participated in this agreement such as County and Houston Community College.

Councilmember Emery moved to adopt the resolution. Councilmember Smith seconded. **MOTION PASSED UNANIMOUSLY.**

- (b) Consider a resolution authorizing the execution of a first amended tax abatement agreement by and between the City of Missouri City, Texas, FWP 14623 LLC, and FWP Properties LLC pertaining to certain improvements to Reserves 10, 11, 12, 13, 14, and 15 of the Lakeview Business Park subdivision located in Reinvestment Zone No. 6.

Councilmember Smith moved to adopt the resolution. Councilmember Nguyen seconded. **MOTION PASSED UNANIMOUSLY.**

- (c) Consider a resolution authorizing the execution of the first restated as amended tax abatement agreement by and between the City of Missouri City, Texas, MCRPC II, LLC, and Rich Products Corporation pertaining to certain improvements and personal property to be located at Reserves 16 and 17 of the Lakeview Business Park subdivision located in Reinvestment Zone No. 12.

Economic Development Director Esch spoke in regard to Reinvestment Zone No. 12 for Rich Products Corporation.

Councilmember Smith moved to adopt the resolution. Councilmember Nguyen seconded. **MOTION PASSED UNANIMOUSLY.**

- (d) Consider a resolution accepting United States Department of Homeland Security Urban Area Security Initiative grant funding to purchase handheld radio devices for the Police Department and consoles for the dispatch center and designating the Mayor as the City's authorized official to accept, reject, alter, or terminate the grant.

Fire Chief Sander stated with the grant they will purchase 53 hand held radios for the Police Department and seven consolettes for the dispatch center. Sander noted it is a 100% funded grant in which the City does not have to match funds.

Councilmember Emery moved to adopt the resolution. Councilmember Smith seconded. **MOTION PASSED UNANIMOUSLY.**

- (e) Consider a resolution declaring the City's intention to reimburse the cost of certain expenditures from the proceeds of certificates of obligation to be issued for the purchase of a fire truck and any items related thereto.

Director of Finance Vela spoke in regards to the reimbursement resolution for fire truck.

Councilmember Smith moved to adopt the resolution. Councilmember Emery seconded. **MOTION PASSED UNANIMOUSLY.**

- (f) Consider a resolution consenting to the addition of 34.228 acres of land to Sienna Plantation Management District of Fort Bend County, Texas.

Mayor Pro Tem Wyatt inquired where the land was located. Rich Muller stated the land is south of the Fort Bend Parkway Toll Way and was purchased from the Schlinder family. Since the land will be used for commercial purposes, it will be brought into the management district from the Sienna MUD No. 13. Mr. Muller clarified it is located within the City.

Councilmember Emery moved to adopt the resolution. Councilmember Smith seconded. **MOTION PASSED UNANIMOUSLY.**

12. CITY COUNCIL ANNOUNCEMENTS

Mayor Owen and Councilmember Nguyen wished everyone a happy holiday.

There was no **CLOSED EXECUTIVE SESSION.**

14. ADJOURN

The Regular City Council meeting adjourned at 8:03 p.m.

ATTEST:

Allen Owen, Mayor

Maria Gonzalez, City Secretary



Council Agenda Item Cover Memo
January 6, 2014

To: Mayor and City Council
Agenda Item: 6(b) Consider an ordinance amending Chapter 70, Offenses, providing rules and regulations related to sex offenders
Submitted by: Dwayne Williams, Captain

SYNOPSIS

This proposed ordinance would prohibit individuals who are convicted of certain sexual offenses against children and who are required to register as sex offenders under state or federal law from entering or living near areas where children regularly congregate.

BACKGROUND

State law provides that a judge may order, as a condition of probation, a sex offender not to go in, on, or within 1000-feet of a premises where children commonly gather ("Child Safety Zone"), including a day-care facility, playground, public or private youth center, public swimming pool, school, or video arcade facility. The proposed ordinance restricts sex offenders who are convicted of certain sexual offenses against children and who are required to register as sex offenders under state or federal law from establishing residences within 2,000 feet of child areas including parks, playgrounds, private recreational facilities, public swimming pools, schools, video arcades, and youth centers. The proposed ordinance also prohibits sex offenders from entering public parks. A growing number of municipalities across the country are passing similar laws to protect children and to reduce opportunities for sexual predators to come into contact with children whom they might potentially victimize.

FISCAL ANALYSIS

No fiscal impact is anticipated.

SUPPORTING MATERIALS

1. Ordinance
2. Map
3. Nearby Cities Residency Restrictions Chart

STAFF'S RECOMMENDATION

Approve the ordinance on second and final reading.

ORDINANCE NO. O-14-_____

**AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS,
AMENDING CHAPTER 70, OFFENSES, OF THE MISSOURI CITY
CODE; PROVIDING RULES AND REGULATIONS RELATED TO
SEX OFFENDERS; PROVIDING FOR REPEAL; PROVIDING A
PENALTY; AND PROVIDING FOR SEVERABILITY.**

* * * * *

WHEREAS, the City of Missouri City is a home-rule city having the authority to utilize police power to regulate the health, safety, and general welfare of the citizens of the city; and

WHEREAS, the laws of the State of Texas, including those found in Chapter 51 of the Texas Local Government Code and the City Charter, provide the City with the authority to adopt ordinances for the good government, order, peace, and welfare of the municipality; and

WHEREAS, Article 42.12(13B) of the Texas Code of Criminal Procedure provides that a person, as a condition of probation, may be ordered not to go in, on, or within 1,000-feet of a premises where children commonly gather ("Child Safety Zone"), including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility; and

WHEREAS, the City finds that sex offenders who are convicted of preying on children are sexual predators who present an extreme threat to the health, safety, and welfare of children; and

WHEREAS, the City has a compelling interest in protecting the health, safety, and welfare of the City's most vulnerable population, children, from convicted child sex offenders who pose a high risk to public safety; and

WHEREAS, victims of childhood sexual abuse are known to suffer long-lasting behavioral, emotional, psychological, and other physical and mental health-related trauma; and

WHEREAS, based on criminological studies readily available in the public domain, the City reasonably believes that individuals commonly commit crimes in close proximity to where they reside; and

WHEREAS, the City reasonably believes that prohibiting individuals who are convicted of sexual offenses against children and are required to register as child sex offenders on the Texas Department of Public Safety's Sex Offender Registry database from entering or living near areas where children regularly congregate will reduce opportunities for sexual predators to come into contact with children whom they might potentially victimize; and

WHEREAS, the City reasonably believes that establishing a buffer zone not to exceed 2,000 feet around certain areas, including parks, playgrounds, private recreational facilities, public skate parks, public swimming pools, schools, video arcade facilities, and youth centers, will decrease sex offenders' access to potential victims and sex crimes against children; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Missouri City, Texas, is hereby amended by adding a new Article V of Chapter 70 to provide as follows:

“CHAPTER 70 OFFENSES

....

ARTICLE V. SEX OFFENDERS

Sec. 70-121. Definitions.

The following words, terms and phrases, whenever used in this article, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning:

Child or children means a person or persons younger than 18 years of age.

Child area means any lot or tract of land that is used as a:

- (a) Playground, school, video arcade facility, or youth center as defined by V.T.C.A., Health and Safety Code, § 481.134;
- (b) Private recreational facility, including but not limited to a park, playground, skate park, swimming pool, or youth athletic field:
 - (1) Owned by a residential property owners association; or
 - (2) For which an entrance, admission, or rental fee is charged, or
- (c) Public park, public skate park, or public swimming pool.

Child sex offender means a person with a reportable conviction or adjudication for a sexual offense involving a child and who is required to register as a sex offender under state law, federal law, or law of a foreign country.

City means the City of Missouri City.

Database means the Texas Department of Public Safety Sex Offender Registry.

Minor has the meaning as assigned by V.T.C.A., Health and Safety Code, § 481.134.

Penal institution has the meaning as assigned by V.T.C.A., Code of Criminal Procedure, ch. 62.

Property owner means any owner of record, person who has contractual responsibility for the property, or person who has the legal right of possession of the property.

Public park means any land designated for public recreation or any athletic field that is owned, leased, or maintained by a governmental entity.

Reportable conviction or adjudication has the meaning as assigned by V.T.C.A., Code of Criminal Procedure, ch. 62.

Residence means a temporary or permanent place where a person abides, lodges, resides, or stays as an overnight guest, or a place which a person registers as his or her residence with the Texas Department of Public Safety under V.T.C.A., Code of Criminal Procedure, ch. 62.

Sexual offense means those offenses requiring registration with the Texas Department of Public Safety under the provisions of V.T.C.A., Code of Criminal Procedure, ch. 62.

Sec. 70-122. Purpose and scope.

The purpose and intent of this article is to promote, protect, and improve the health, safety, and welfare of the citizens of the city by prohibiting child sex offenders from establishing residences within 2,000 feet from any child area. This article serves the city's compelling interest to protect children against child sex offenders as children lack the ability to protect themselves. As such, additional measures should be taken to keep known child sex offenders from having access to children around premises where children commonly gather and where they generally feel safe.

Nothing in this article shall be interpreted to modify or reduce a child sex offender's duty to comply with the child safety zone regulations under state law.

Sec. 70-123. Sex offender residency restriction.

It is unlawful for a child sex offender to establish residence within 2,000 feet of any child area.

Sec. 70-124. Evidentiary matters; measurements.

(a) It shall be prima facie evidence that this article applies to a child sex offender if that child sex offender's record appears on the database and the database indicates the victim was a child as defined herein.

(b) For the purposes of measuring distance as required in this article, the distance shall be measured by following a straight line, without regard to intervening structures or objects, from the nearest property line of the residence to the nearest property line of the child area.

(c) In a prosecution under section 70-123, a map produced or reproduced by the city for the purpose of showing the location and boundaries of child areas is admissible in evidence and is prima facie evidence of the location or boundaries of those areas. Maps will be available at the Missouri City Police Department for public inspection.

(d) It is a defense to prosecution under this article if a person charged under section 70-123:

(1) Provides adequate documentation showing that the information on the database is incorrect and that, if corrected, this article would not apply to the person;

(2) Has established and continuously maintained the residence prior to the effective date of this article, has complied with all sexual offender registration laws, and has not been convicted of an offense after the effective date of this article that requires the person to register as a child sex offender with the Texas Department of Public Safety;

(3) Has established and continuously maintained the residence prior to the date the applicable child area is established, has complied with all sexual offender registration laws, and has not been convicted of an offense after the date the applicable child area is established that requires the person to register as a child sex offender with the Texas Department of Public Safety;

(4) Has been exempted by a court order from registering as a child sex offender or has completed his or her obligation to register as a child sex offender under V.T.C.A., Code of Criminal Procedure, ch. 62;

(5) Has had the offense for which the sex offender registration was required reversed on appeal or pardoned;

(6) Is a minor and lives with the person's parent or guardian;

(7) Was a minor when he or she committed the offense and was not convicted as an adult;

(8) Is under an order of a court of competent jurisdiction in the State of Texas or of the Texas Department of Criminal Justice Parole Board instructing the person to reside at a location within 2,000 feet of any child area;

(9) Is incarcerated at a penal institution located within 2,000 feet of any child area; or

(10) Provides adequate documentation that the child area is no longer at the location.

(e) It is not a defense to prosecution under this article that a child sex offender was allowed by mistake or error of the city to register or verify a residence that is within 2,000 feet of the child area.

Sec. 70-125. Property owners prohibited from renting to sex offenders.

(a) It is unlawful for a property owner to rent a residential property located within 2,000 feet of a child area to a child sex offender.

(b) It is a defense to prosecution under this section that the property owner conducted a criminal history check with the Texas Department of Public Safety and reviewed the database and, at the time the property owner conducted the criminal history check and reviewed the database,

(1) the child sex offender's criminal history did not include a record of a sexual offense; and

(2) the child sex offender's name did not appear in the database.

Sec. 70-126. Child sex offenders prohibited from entering city parks, swimming pools, or skate parks.

It is unlawful for a child sex offender to enter a city park, swimming pool, or skate park.

Sec. 70-127. Violations and penalties.

(a) A person who violates, or causes, allows or permit another person to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

(b) A culpable mental state is not required for the commission of an offense under this article and need not be proved."

Section 3. Repeal. Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 4. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 16th day of December, 2013.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2014.

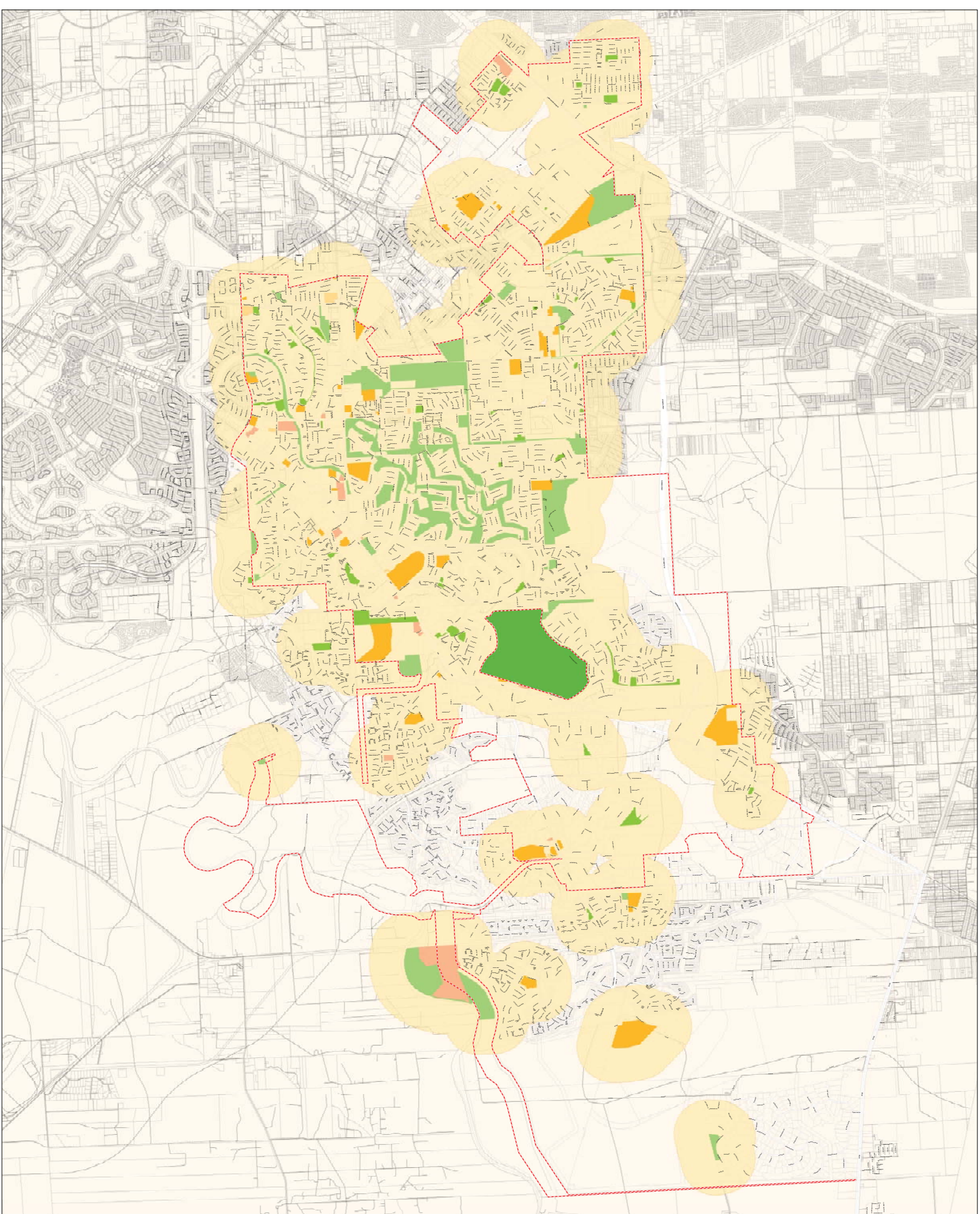
Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney



Map By:
GIS Division
December 2013



Sex Offender Residential Restriction with 2000 ft Buffer

- Legend**
- | | |
|-------------------------------|-------------------------------|
| Sex Offender Restriction Type | HOA Park |
| Child Development/Day Care | Private Recreational Facility |
| City Park | School |
| County Park | 2000 ft Buffer Zone |
| | City Limits |

0 1,500 3,000 6,000 9,000 12,000
Feet
Geographic Coordinate System North American Datum 1983 (NAD83)



The information on this map is provided and maintained by various agencies, including county departments, municipal governments, state and federal agencies. The map is designed to serve as a secondary representation of real property found within this jurisdiction, and is compiled from the recorded deeds, plats, and other public records, which are primary sources for this public information. The data layers do not take the place of a legal survey or other primary source documentation. The City and its vendors assume no legal responsibility for the information on this map.

Sex Offender Residence Restrictions in the Brazoria/Fort Bend/Galveston/Harris Counties			
1000 ft	1500 ft	2000 ft	2500 ft
Alvin	Baytown	Dickinson	Sugar Land
Angleton		Friendswood	Texas City
Bellaire		Galveston	
Brazoria		League City	
Clute		Meadows Place	
Humble		Seabrook	
La Porte			
Lake Jackson			
Manvel			
Pasadena			
Pearland			
Richmond			
Santa Fe			
South Houston			
Surfside			
West University Place			



**Council Agenda Item Cover Memo
January 6, 2014**

To: Mayor and City Council
Agenda Item: 6c Consider awarding a contract for Publication of Legal Notices and Advertising.
Submitted by: Alfonso Guerrero Jr. Purchasing Manager

SYNOPSIS

The previous contract for publishing legal notices expired November 30, 2013. Staff requests authorization to enter into a new multi-year contract for newspaper advertising space for the publication of legal notices and other items of public interest.

BACKGROUND

Purchasing Department prepared and advertised a request for proposals RFP 056-14. The RFP specifications require the contractor to meet the publication requirements set forth by the Texas Local Government Code for legal notices. The solicitation asked vendors to submit four different proposals each following a different set of parameters and explain its percentage of City covered and method of distribution:

- Proposal Option #1 – The vendor shall be required only to comply with the minimum requirements established by state law.
- Proposal Option #2 – The vendor shall be required to comply with the minimum requirements established by state law and deliver to a minimum of 80% of the residential dwellings within the City of Missouri City corporate limits with any and all newspapers carrying the legal and classified ad copy.
- Proposal Option #3 – The vendor shall be required to comply with the minimum requirements established by state law and describe its own creative alternative method of distribution of the newspaper within the City to achieve maximum coverage beyond that of Options #1 and #2.
- Proposal Option #4 – The vendor shall be required to comply with the minimum requirements established by state law and describe its own creative alternative method of distribution of the newspaper within the City to achieve compliance with 90 % circulation distribution to single-member residential households, excluding multi-family units, representing all four single member districts within the corporate city limits of Missouri City. Provide the circulation distribution number by subdivision within each single-member district within the corporate city limits.

Responses for RFP# 056-14 Legal Notices and Advertising were opened on November 19, 2013. One proposal was received. The proposal received was from the Fort Bend Independent, LLC (FBILLC).

Fort Bend Independent submitted four options. Please see the attached tabulation sheet to see the details on each option submitted. Fort Bend Independent is the incumbent awarded vendor and has worked well with the Purchasing Department in providing these services.

Staff reviewed the proposal submitted and recommends that City Council approve the award of option 4 to FBILLC. Option four offers the largest distribution at 90%. Selecting option 4 supports the City's goal to solicit to as many local and small businesses as possible by continuing to expand the City's efforts to reach as many local and small businesses as possible; providing them with the best opportunity to respond to and receive awards from City bids.

Therefore, Purchasing Department recommends that City Council approves a term contract award to Fort Bend Independent Option #4. A standard City contract will be utilized with the initial period beginning upon contract execution through January 31, 2015. The contract will automatically renew annually on the anniversary date unless either party notifies the other of its intent to not renew in writing. Each renewal will be in one (1) year increments, with the total contract length of four (4) years.

FISCAL ANALYSIS

Cost of advertising is budgeted in each Division's line item Printing and Publications. Annual expenditures are estimated at \$22,600 at the new rate.

SUPPORTING MATERIALS

1. Tabulation Sheet.

STAFF'S RECOMMENDATION

Award a contract to Fort Bend Independent, LLC for option #4 to RFP 056-14 Publication of legal Notices and Advertising.

RFP 056-14 Publication of Legal Notices and Advertising		Co. Name	Fort Bend Independent, LLC
		Contact	Seshadri Kumar
		Street Address	10701 Corporate Dr, #282
		City, State	Stafford, Texas
		Zip Code	77477
		Phone	281-799-9459
		Fax	n/a
		Email	editor@fbindependnet.com
ITEM			
NO	Description	Service	Rate Per Column Inch
Proposal Option #1	The vendor shall be required only to comply with the minimum requirements established by state law. Those requirements are detailed in Section II. B. above. Proposal must explain in detail the existing methods of distribution used in the City and the delivery coverage results.	Legal Notice Publication Rate	\$4.36
		Classified Advertising	\$4.36
		Display Advertising	\$10.00
		Publication	\$12.00
Proposal Option #2	The vendor shall be required only to comply with the minimum requirements established by state law and deliver to a minimum of 80% of the residential dwellings within the City of Missouri City corporate limits with any and all newspapers carrying the legal and classified ad copy. Proposal must explain in detail the methods of distribution used to achieve the delivery results.	Legal Notice Publication Rate	\$4.36
		Classified Advertising	\$4.36
		Display Advertising	\$10.00
		Publication	\$12.00
Proposal Option #3	The vendor shall be required only to comply with the minimum requirements established by state law and describes its own creative alternative method of distribution of the newspaper within the City to achieve maximum coverage beyond that of Options #1 and #2. Proposal must explain in detail the methods of distribution used.	Legal Notice Publication Rate	\$4.36
		Classified Advertising	\$4.36
		Display Advertising	\$10.00
		Publication	\$12.00
Proposal Option #4	The vendor shall be required only to comply with the minimum requirements established by state law describe its own creative alternative method of distribution of the newspaper within the City to achieve compliance with 90 % circulation distribution to single-member residential households, excluding multi-family units, representing all four single member districts within the corporate city limits of Missouri City. Provide the circulation distribution number by subdivision within each single-member district within the corporate city limits. Explain in detail, the proposed percentage coverage and the method of distribution used. *** (Prices reflect a 1.5% discount negotiated by Purchasing Department for allowing Fort Bend Independent, LLC to receive payment through a purchase order instead of the City's Pcard.)	Legal Notice Publication Rate	\$4.52
		Classified Advertising	\$4.52
		Display Advertising	\$9.85
		Publication	\$11.82

056-14	Solicitation Distribution	Vendors Notified	Vendors Downloaded
1	Demandstar	38	1
2	Public Purchase	34	21
3	Local and HUB vendors	675	



**Council Agenda Item Cover Memo
January 6, 2014**

To: Mayor and City Council
Agenda Item: 6(d) Consider awarding a term contract for ground maintenance services.

Submitted by: Alfonso Guerrero Jr., Purchasing Manager
Larry Foos, CPRP Parks and Recreation Director
Randy Troxell, Asst. Park Director

SYNOPSIS

The City's current ground maintenance service contract expired on December 31, 2013. The Parks Department desires to execute a new term contract for these services. The annual cost of the contract will be in excess of \$25,000 and therefore requires Council action.

BACKGROUND

The Parks Department is responsible for maintaining an estimated 356 acres of property throughout the City. These properties require mowing, trimming, weeding, cleanup and other miscellaneous tasks in order to keep the public parks, medians and right-of-ways and facilities safe and esthetically pleasing to the public.

Purchasing Department advertised RFP #050-14 Ground Maintenance Services on November 6, 2013, in the Fort Bend Independent newspaper for two consecutive weeks. The solicitation was also posted on Demandstar and Public Purchase bid posting websites. Purchasing also sent weekly bid notices via email blast to the vendors listed in the City's HUB and Local Vendor list. The solicitation was publicly opened November 26, 2013, where twelve proposals were received. The proposals were evaluated and ranked based on evaluation criteria listed in the scoring sheet attached. Please see the attached Score Sheet and Tabulation Sheet for more details.

Of the twelve proposals received, Houston Grotech Services from Houston, Texas scored the highest in the evaluation process. Therefore, it is Staff's recommendation that Council award a term contract to Houston Grotech Services for Ground Maintenance Services. A standard City contract will be utilized with the initial period beginning upon contract execution through December 31, 2014. The contract will automatically renew annually on the anniversary date unless either party notifies the other of its intent to not renew, in writing. Each renewal will be in one (1) year increments, with the total contract length of four (4) years.

FISCAL ANALYSIS

Current contract: BIO Landscape	41 mowing x \$8,758.38 per cycle = \$ 359,093.58
Proposed New Contractor: Houston Grotech	41 mowing x \$6,120.58 per cycle = <u>\$</u> <u>250,943.78</u>
Annual Savings	\$ 108,163.33

SUPPORTING MATERIALS

1. Tabulation Sheet
2. Score Sheet.

STAFF'S RECOMMENDATION

Staff recommends that City Council awards a term contract to Houston Grotech Services from Houston of Texas for RFP #050-14 Ground Maintenance Services.

050-14 Ground Maintenance - Tabulation Sheet													
	Company	Central Landscape and Maintenance	Hyrozone Landscape Corporation	Westco	Houston Grotech Services	South East Texas Lawn & Maintenance	Personal Touch Management Inc. DBA Special Touch Landscaping	Hou-Scape, Inc	Horticare Lawn Maintenance	Cypress Creek Pest Control, Inc.	McLemore Building Maintenance	WCD Enterprises, LLC	Bio Landscape & Maintenance
		Houston, TX, 77026	Baytown, TX	Houston, TX, 77041	Houston, TX	Beaumont, TX	Houston, TX	Cyprss, TX, 77410	League City, TX	Houston, TX, 77269	Houston, TX, 77006	Scottsdale, AZ	Houston, TX
	Local or HUB Vendor	No	No	No	No	No	No	No	No	No	No	No	No
	Attended Pre Proposal Meeting	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Signed Contract Sheet	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
	Site Location	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
1	City Hall/Comm.Ctr./Library	\$ 160.00	\$ 213.00	\$ 205.65	\$ 149.43	\$ 180.00	\$ 110.00	\$ 202.42	\$ 157.73	\$ 313.00	\$ 353.39	\$ 205.50	\$ 180.25
2	Service Center, Animal Control, Scanlin Rd	\$ 150.00	\$ 88.00	\$ 103.39	\$ 61.92	\$ 100.00	\$ 40.00	\$ 119.57	\$ 65.36	\$ 108.00	\$ 146.44	\$ 33.50	\$ 72.10
3	Cartwright Rd, Medians	\$ 125.00	\$ 129.50	\$ 164.68	\$ 90.79	\$ 415.00	\$ 70.00	\$ 228.90	\$ 95.83	\$ 525.00	\$ 214.72	\$ 137.00	\$ 128.50
4	Rec. Tennis Center	\$ 100.00	\$ 75.00	\$ 105.00	\$ 52.58	\$ 125.00	\$ 75.00	\$ 109.09	\$ 55.52	\$ 310.00	\$ 124.35	\$ 115.00	\$ 186.00
5	PSHQ/EOC	\$ 120.00	\$ 44.00	\$ 63.80	\$ 31.25	\$ 35.00	\$ 45.00	\$ 82.00	\$ 32.99	\$ 98.00	\$ 73.91	\$ 55.00	\$ 46.35
6	Hwy 6 Beautification Area	\$ 100.00	\$ 13.70	\$ 21.31	\$ 4.80	\$ 15.00	\$ 15.00	\$ 26.12	\$ 10.00	\$ 60.00	\$ 11.36	\$ 20.00	\$ 12.00
7	Hwy 90A and Monument	\$ 300.00	\$ 285.35	\$ 275.00	\$ 200.05	\$ 240.00	\$ 175.00	\$ 288.14	\$ 211.16	\$ 385.00	\$ 473.12	\$ 282.00	\$ 252.35
8	American Legion Park/Lexington Blvd. West	\$ 250.00	\$ 246.80	\$ 264.89	\$ 173.02	\$ 450.00	\$ 150.00	\$ 156.51	\$ 182.63	\$ 343.00	\$ 409.20	\$ 206.00	\$ 221.45
9	Bicentennial Park/1500 Blk & 1700 Blk 5th St.	\$ 150.00	\$ 25.00	\$ 41.80	\$ 17.51	\$ 15.00	\$ 25.00	\$ 38.52	\$ 20.00	\$ 95.00	\$ 41.41	\$ 20.00	\$ 27.81
10	Buffalo Run Park/Buffalo Run ROW	\$ 225.00	\$ 427.22	\$ 301.78	\$ 299.52	\$ 375.00	\$ 285.00	\$ 370.34	\$ 316.15	\$ 410.00	\$ 708.35	\$ 284.00	\$ 298.70
11	Community Park/Misty Hollow	\$ 900.00	\$ 1,314.26	\$ 1,472.79	\$ 1,151.74	\$ 950.00	\$ 900.00	\$ 1,043.33	\$ 1,090.00	\$ 1,230.00	\$ 2,722.80	\$ 1,103.00	\$ 1,080.02
12	Freedom Tree Park	\$ 150.00	\$ 141.93	\$ 143.92	\$ 99.50	\$ 15.00	\$ 94.00	\$ 89.11	\$ 105.00	\$ 241.00	\$ 235.31	\$ 18.00	\$ 10.00
13	Gammill Park/Fire Station #2/McLain Park/ROW	\$ 50.00	\$ 41.17	\$ 40.70	\$ 28.87	\$ 30.00	\$ 42.00	\$ 32.39	\$ 30.50	\$ 97.00	\$ 68.26	\$ 15.00	\$ 36.05
14	Hunters Glen Park/Grand Park Dr.	\$ 350.00	\$ 443.97	\$ 466.28	\$ 311.26	\$ 375.00	\$ 296.00	\$ 363.48	\$ 328.55	\$ 510.00	\$ 736.13	\$ 396.00	\$ 391.40
15	Hunters Trail Park	\$ 150.00	\$ 86.42	\$ 94.88	\$ 60.59	\$ 75.00	\$ 87.00	\$ 70.75	\$ 63.50	\$ 127.00	\$ 143.29	\$ 84.00	\$ 82.40
16	Independence Park	\$ 200.00	\$ 198.95	\$ 211.14	\$ 22.07	\$ 120.00	\$ 125.00	\$ 133.29	\$ 147.20	\$ 238.00	\$ 329.87	\$ 140.00	\$ 133.90
17	MacNaughton Park	\$ 600.00	\$ 712.62	\$ 783.75	\$ 624.50	\$ 525.00	\$ 500.00	\$ 601.50	\$ 659.17	\$ 720.00	\$ 1,476.93	\$ 620.50	\$ 565.47
18	Mosley Park/Oyster Trail/Cartwright Rd. West	\$ 250.00	\$ 558.54	\$ 808.97	\$ 489.47	\$ 315.00	\$ 425.00	\$ 443.49	\$ 516.65	\$ 451.00	\$ 1,157.59	\$ 60.00	\$ 690.00
19	Oak Hill Park	\$ 100.00	\$ 19.20	\$ 22.00	\$ 6.73	\$ 8.00	\$ 10.00	\$ 16.74	\$ 10.00	\$ 65.00	\$ 15.92	\$ 10.00	\$ 20.60
20	Quail Green West Park	\$ 250.00	\$ 269.80	\$ 269.50	\$ 189.15	\$ 205.00	\$ 200.00	\$ 196.75	\$ 199.60	\$ 340.00	\$ 447.33	\$ 259.50	\$ 226.60
21	Quail Valley North Park	\$ 150.00	\$ 146.72	\$ 144.95	\$ 102.86	\$ 105.00	\$ 125.00	\$ 130.00	\$ 108.50	\$ 230.00	\$ 243.28	\$ 132.50	\$ 123.60
22	Ridgeview Park	\$ 200.00	\$ 205.52	\$ 209.00	\$ 144.09	\$ 160.00	\$ 137.00	\$ 195.00	\$ 152.00	\$ 245.00	\$ 340.76	\$ 175.00	\$ 180.25
23	Riverstone Trail Head	\$ 100.00	\$ 42.12	\$ 53.90	\$ 29.53	\$ 30.00	\$ 42.00	\$ 48.00	\$ 31.15	\$ 95.00	\$ 69.84	\$ 36.00	\$ 30.90
24	Roane Park/Walgreen Sidewalk	\$ 350.00	\$ 332.40	\$ 454.05	\$ 291.30	\$ 300.00	\$ 250.00	\$ 295.00	\$ 307.20	\$ 513.00	\$ 688.91	\$ 357.00	\$ 350.20
25	StaMo Sports Complex	\$ 250.00	\$ 316.40	\$ 302.84	\$ 221.85	\$ 235.00	\$ 210.00	\$ 233.00	\$ 234.60	\$ 360.00	\$ 524.69	\$ 262.00	\$ 257.50
26	Fire Station #3	\$ 75.00	\$ 38.25	\$ 19.80	\$ 13.41	\$ 12.00	\$ 30.00	\$ 49.00	\$ 14.00	\$ 50.00	\$ 31.71	\$ 16.50	\$ 15.45
27	Fire Station #4/McKeever ROW	\$ 75.00	\$ 66.55	\$ 65.19	\$ 46.66	\$ 45.00	\$ 40.00	\$ 61.00	\$ 49.20	\$ 76.00	\$ 110.34	\$ 61.00	\$ 56.65
28	Fire Station #5	\$ 75.00	\$ 25.00	\$ 40.00	\$ 8.76	\$ 8.00	\$ 25.00	\$ 26.00	\$ 10.00	\$ 50.00	\$ 20.73	\$ 12.00	\$ 15.45
29	Cypress Point/GCWA Trail Crossings	\$ 200.00	\$ 41.17	\$ 47.96	\$ 28.87	\$ 30.00	\$ 40.00	\$ 28.00	\$ 30.20	\$ 71.00	\$ 68.26	\$ 35.00	\$ 185.65
30	FM 1092 Corridor	\$ 200.00	\$ 35.80	\$ 57.28	\$ 25.10	\$ 8.00	\$ 40.00	\$ 26.00	\$ 26.50	\$ 60.00	\$ 59.35	\$ 20.00	\$ 49.44
31	Glenn Lakes Bridges	\$ 50.00	\$ 10.00	\$ 22.00	\$ 0.67	\$ 15.00	\$ 15.00	\$ 16.00	\$ 10.00	\$ 50.00	\$ 1.58	\$ 12.00	\$ 12.00
32	Hurricane Lane	\$ 150.00	\$ 31.47	\$ 34.37	\$ 22.07	\$ 25.00	\$ 40.00	\$ 31.00	\$ 23.10	\$ 89.00	\$ 52.19	\$ 38.50	\$ 12.00

33	Independence Blvd./Lexington Blvd	\$ 450.00	\$ 280.12	\$ 294.06	\$ 196.39	\$ 515.00	\$ 160.00	\$ 335.80	\$ 207.29	\$ 425.00	\$ 464.46	\$ 282.50	\$ 307.97
34	Kiamesha Lot	\$ 75.00	\$ 25.60	\$ 13.20	\$ 8.97	\$ 8.00	\$ 10.00	\$ 13.00	\$ 10.00	\$ 45.00	\$ 21.22	\$ 11.00	\$ 8.00
35	Knights Ct.	\$ 150.00	\$ 35.60	\$ 121.00	\$ 24.96	\$ 100.00	\$ 60.00	\$ 51.00	\$ 26.35	\$ 210.00	\$ 59.03	\$ 108.00	\$ 109.18
36	Lake Olympia Blvd.	\$ 100.00	\$ 126.90	\$ 159.50	\$ 88.97	\$ 8.00	\$ 125.00	\$ 118.00	\$ 93.90	\$ 240.00	\$ 210.40	\$ 125.00	\$ 10.30
37	Lakestone Blvd.	\$ 50.00	\$ 10.00	\$ 11.00	\$ 2.40	\$ 8.00	\$ 10.00	\$ 5.00	\$ 10.00	\$ 40.00	\$ 5.67	\$ 10.00	\$ 8.00
38	La Quinta @ Oak Pointe	\$ 50.00	\$ 10.00	\$ 6.36	\$ 0.91	\$ 8.00	\$ 5.00	\$ 5.00	\$ 10.00	\$ 40.00	\$ 2.15	\$ 10.00	\$ 8.00
39	Independence Blvd./Court Rd./3400-3700 Blk 5th St	\$ 350.00	\$ 303.07	\$ 303.10	\$ 212.48	\$ 550.00	\$ 195.00	\$ 297.00	\$ 224.28	\$ 403.00	\$ 502.51	\$ 262.00	\$ 283.25
40	Overland Dr. @ HL&P R.O.W.	\$ 50.00	\$ 10.00	\$ 11.00	\$ 2.82	\$ 8.00	\$ 10.00	\$ 5.00	\$ 10.00	\$ 40.00	\$ 6.67	\$ 10.00	\$ 8.00
41	Ouail Green West Subdivision	\$ 275.00	\$ 115.22	\$ 159.50	\$ 80.78	\$ 205.00	\$ 115.00	\$ 133.00	\$ 85.27	\$ 230.00	\$ 191.05	\$ 115.00	\$ 118.45
42	S. Gessner Rd./N. Cravens	\$ 325.00	\$ 184.20	\$ 266.35	\$ 129.14	\$ 140.00	\$ 90.00	\$ 210.00	\$ 136.31	\$ 295.00	\$ 305.41	\$ 167.00	\$ 498.26
43	Waterford Village/Brightwater Center	\$ 50.00	\$ 16.75	\$ 11.00	\$ 5.67	\$ 8.00	\$ 10.00	\$ 11.00	\$ 10.00	\$ 55.00	\$ 13.89	\$ 10.00	\$ 10.30
44	Texas Parkway (sides and medians)	\$ 500.00	\$ 337.47	\$ 404.97	\$ 236.59	\$ 750.00	\$ 195.00	\$ 444.00	\$ 250.00	\$ 572.00	\$ 559.55	\$ 275.00	\$ 712.65
45	Hwy 6 Medians	\$ 300.00	\$ 96.22	\$ 115.47	\$ 67.46	\$ 150.00	\$ 85.00	\$ 94.00	\$ 71.21	\$ 260.00	\$ 159.55	\$ 68.00	\$ 550.58
46	Lakeshore Harbour/Trammel-Fresno Medians	\$ 300.00	\$ 71.27	\$ 84.62	\$ 49.97	\$ 100.00	\$ 60.00	\$ 70.00	\$ 52.74	\$ 201.00	\$ 118.17	\$ 60.00	\$ 195.45
47	Thompson Ferry	\$ 50.00	\$ 37.50	\$ 60.00	\$ 13.15	\$ 35.00	\$ 15.00	\$ 18.00	\$ 13.88	\$ 75.00	\$ 31.09	\$ 10.00	\$ 135.00
Totals		\$ 9,630.00	\$ 8,285.75	\$ 9,333.70	\$ 6,120.58	\$ 8,134.00	\$ 5,808.00	\$ 7,560.24	\$ 6,505.22	\$ 11,686.00	\$ 14,752.14	\$ 6,745.00	\$ 8,924.43
Ranking Sheet Score		71	76	73	88	58	68	82	Did not submit a signed contract sheet required by the RFP; therefore was not considered for award.	31	41	62	83

050-14	Solicitation Distribution	Vendors Notified	Vendors Downloaded Bid
1	Demandstar	271	10
2	Public Purchase	963	52
3	Local and HUB vendors	675	

Solicitation Score Sheet
050-14 Ground Maintenance - Tabulation Sheet

Scoring Criteria

No.	Vendor	Purchase Price	Reputation of the vendor and of the vendor's goods or services and the quality of the vendor's goods or services.	Extent to which the goods or services meet the municipality's needs.	Vendor's past relationship with the municipality.	The total long-term cost to the municipality to acquire the bidder's goods or services; and any relevant criteria specifically listed in the request for bids or proposals.	The impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses, local businesses and nonprofit organizations employing persons with disabilities.	Total Pts
	Maximun Points	35pts	15pts	25pts	10 pts	10 pts	5 pts	100 pts
1	Central Landscape and Mainteance	21	15	20	5	10	0	71
2	Hyrozone Landscape Corporation	25	15	23	5	8	0	76
3	Westco	22	15	23	5	8	0	73
4	Houston Grotech Services	33	15	25	5	10	0	88
5	South East Texas Lawn & Maintenance	25	15	10	5	3	0	58
6	Personal Touch Management Inc. DBA Special Touch Landscaping	35	15	10	5	3	0	68
7	Hou-Scape, Inc	27	15	25	5	10	0	82
8	Horticare Lawn Maintenance	31	0	0	0	0	0	31
9	Cypress Creek Pest Control, Inc.	17	5	2	5	2	0	31
10	McLemore Building Maintenance	14	15	5	5	2	0	41
11	WCD Enterprises, LLC	30	8	15	6	3	0	62
12	Bio Landscape & Maintenance	23	15	25	10	10	0	83

Horticare Lawn Maintenance did not submit a signed contract sheet with their proposal as required by the RFP; therefore was not evaluated nor considered for award.



Council Agenda Item Cover Memo

January 6, 2014

To: Mayor and City Council
Agenda Item: 6(e) Consider authorizing the purchase of polyurethane foam materials and labor through the interlocal agreement with Fort Bend County for cooperative purchasing.
Submitted by: Sharon Valiante, Assistant Director of Public Works
Alfonso P. Guerrero, Jr., Purchasing Manager

SYNOPSIS

Staff desires to gain authorization to purchase polyurethane foam type materials and labor to raise pavement from the cooperative purchasing contracts with Fort Bend County. The annual expenditure amount is over \$25,000 and therefore requires Council action.

BACKGROUND

City staff performs pavement repairs using a variety of methods that include polyurethane pavement raising throughout the course of the year. These types of repairs are performed by contractors to improve the condition of the City's pavement infrastructure. When the opportunity presents a benefit to the City's operations, the City has been purchasing these various materials and services through previous contracts awarded by Fort Bend County. Historical purchases have cumulatively exceeded the \$25,000 expenditure threshold for a fiscal year. As is City policy, staff seeks Council approval to continue making these purchases and to utilize the contracts awarded by Fort Bend County. The County awarded a contract to all bidders meeting specifications for polyurethane pavement raising materials and labor on September 03, 2013. A copy of the tabulation is attached. The new contract award is valid through September 30, 2014, and annually renewable until September 2018.

The contract was competitively bid and gives the City access to volume pricing based on the larger purchasing power of the County. The price is \$4.48/lb used.

FISCAL ANALYSIS

Individual purchases will be charged to the user department budget in the appropriate budgetary line item, primarily Capital Improvement Projects and possibly Streets and Drainage. Contracts are awarded on a unit price basis. Estimated expenditure through September 2014 is \$125,000.00.

SUPPORTING MATERIALS

1. FB County Letter of Award
2. Bid Tabulation

STAFF'S RECOMMENDATION

Authorize staff to purchase polyurethane pavement raising materials and labor on an as-needed basis from Uretek, Inc, the awarded vendor on the Fort Bend County contract.



COUNTY PURCHASING AGENT
Fort Bend County, Texas

ert D. Jalomo, Jr., CPPB
County Purchasing Agent

(281) 341-8640
Fax (281) 341-8645

September 4, 2013

Via E-mail jim.reid@att.net

Mr. Jim Reid
Uretek USA, Inc.

Re: Fort Bend County B14-013 Term Contract for Hydro-Insensitive
Polyurethane Foam Materials and Labor

Dear Mr. Reid,

This letter is to advise you that the Fort Bend County Commissioners Court in Regular Session on September 3, 2013, awarded the above referenced contract to your company pursuant to your bid response. The bid tabulation is attached for your review.

Term of contract is 1, October 2013 through 30, September 2014.

We also need an updated Certificate of Liability Insurance according to the Fort Bend County bid requirements.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Kaminski".

Debbie Kaminski, CPPB
Assistant County Purchasing Agent

DK/wwr

Fort Bend County Tabulation
Bid 14-013
Term Contract for Hydro-Insensitive Polyurethane Foam Materials and Labor
Term: 1 October 2013 through 30 September 2014
Awarded 9/3/13: Uretek USA, Inc.

Library	Lawson Number	Price Per Pound
Uretek USA, Inc. Tomball	7562	\$4.48
Nortex Concrete Lift & Stabilization Fort Worth		\$5.95



Council Agenda Item Cover Memo

January 6, 2014

To: Mayor and City Council
Agenda Item: 7(a)(1) Public hearing to receive comments for or against a request to amend the regulations and restrictions pertaining to PD Planned Development District No. 55 to allow for outdoor storage.

Submitted by: Gary W. Smith, Director of Development Services
Prepared by: Jennifer Thomas, AICP, Senior Planner

SYNOPSIS

This is the second and final reading of an ordinance to amend the regulations and restrictions pertaining to PD, Planned Development District No. 55 specifically as it pertains to the outside placement and storage of materials and equipment as well as for the considered use of corrugated plastic wall panels.

The subject site is located north of Tamlyn, south of Stafford Road and east of Pike Road at the limits of the City of Missouri City, Texas.

BACKGROUND

PD No. 55 was originally approved in 2006 to allow for the use of “pan signs” for an industrial business park. The industrial business park, also known as Chance Crossing, is comprised of 18 parcels of land with eight buildings constructed to date. The developer of Chance Crossing desires to continue the development of the business park with the addition of seven new office/warehouses buildings along Pike Road. The proposed operations of at least one prospective tenant include the need for outside placement and storage of materials and equipment. PD No. 55 presently prohibits outdoor sales, display or storage.

Additionally, the applicant is requesting consideration for the use of a corrugated plastic material for a wall panel.

The ordinance was approved on the first reading.

Changes have been made to the ordinance to clarify that either a masonry wall or wood fencing is required to screen materials stored outside if the area is not within view of a roadway or driveway used by the general public. Such screening is required to be a minimum of six feet in height. At the applicant's request, provisions were included to allow for openings in the required masonry screen walls for ventilation purposes as well to provide for access gates.

FISCAL ANALYSIS

None.

SUPPORTING MATERIALS

1. Ordinance
2. Changes Marked
3. Ordinance O-06-34
4. Ortho map
5. Notice of public hearing

STAFF'S RECOMMENDATION

Approve ordinance on second and final reading.

ORDINANCE NO. O-14-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING REGULATIONS IN PD PLANNED DEVELOPMENT DISTRICT NO. 55, CONSISTING OF A 25.776-ACRE TRACT OF LAND; DESCRIBING SAID 25.776-ACRE TRACT OF LAND; REGULATING AND RESTRICTING THE DEVELOPMENT AND USE OF PROPERTY WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MISSOURI CITY AS ADOPTED BY ORDINANCE NO. O-81-01 ADOPTED ON JANUARY 19, 1981, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, PD Planned Development District No. 55 ("PD No. 55") consists of a 25.776-acre tract of land situated within the corporate limits of the City of Missouri City, Texas (the "Property"), owned by Pike Road – Stafford L.P.; and

WHEREAS, the Property presently has a zoning classification of PD Planned Development District No. 55 pursuant to Ordinance No. O-81-01, adopted on January 19, 1981, as amended by Ordinance No. O-06-34, adopted on June 19, 2006; and

WHEREAS, Robert Lay-Su, as agent for Pike Road – Stafford L.P., has made application to the City of Missouri City to make amendments to PD No. 55, as authorized by the City of Missouri City Zoning Ordinance; and

WHEREAS, pursuant to Section 8.3 of the City of Missouri City Zoning Ordinance, said application was submitted to the City of Missouri City with proof of unified ownership or control of all of the Property; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on such requested amendments to PD No. 55; and

WHEREAS, the City of Missouri City Planning and Zoning Commission has issued its final report and the City Council of the City of Missouri City now deems it appropriate to grant such requested amendments to PD No. 55; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. As required by law, the City Council of the City of Missouri City conducted the public hearing on the request to amend PD No. 55 and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. The Property presently has a zoning classification of PD Planned Development District No. 55. The Property is more fully described as all of the land contained in the plat of Ingco Business Park a subdivision of land located in the City of Missouri City and recorded in the real property records of Fort Bend County as clerk's file no. 1176814.

Section 4. PD No. 55 shall be developed in accordance with the Missouri City Code and the City of Missouri City Zoning Ordinance and shall be developed subject to the following limitations, restrictions, and conditions:

- A. **Purpose.** PD No. 55 is comprised of a developed tract previously zoned I Industrial district, with an existing multiple building complex. Improvements to the site will be designed to complement the overall urban design and nature of the surrounding area.
- B. **Use regulations.** In PD No. 55, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged except as provided by this Ordinance. The following uses shall be permitted:
 - 1. I Industrial district.
- C. **Height and area regulations.** The height and area regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
- D. **Building regulations.** Except as set forth herein, all buildings and structures constructed shall comply with the building codes of the City of Missouri City. All buildings and structures within the planned development shall meet the requirements of Section 7A, Architectural Design Standards, City of Missouri City Zoning Ordinance, for architectural design zone I-1. Any use of temporary buildings, other than for construction trailers during construction, is prohibited.

1. **Building Material.** Polycarbonate multiwall sheets that are clear in color may be used.
- E. **Sound.** Sound emanating from uses located within the subject tract shall comply with the City of Missouri City Code of Ordinances. Additionally, the amplification of sound to the outside of buildings is prohibited.
- F. **Trash disposal areas.** Except as set forth herein, the requirements of Section 9.14 of the City of Missouri City Zoning Ordinance for I Industrial district shall apply in PD No. 55. Trash disposal areas shall be screened by masonry enclosures, a minimum of eight (8) feet in height.
- G. **Landscaping, screening and buffering.** The requirements of Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.
- H. **Utilities.** The provision and construction of utilities shall comply with the City of Missouri City Infrastructure Code.
- I. **Ingress and egress.** All driveways and off-street parking areas, including locations, shall comply with the City of Missouri City Infrastructure Code.
- J. **Lighting.** Lighting regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
- K. **Parking regulations.** The requirements of Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.
- L. **Signage.** Except as set forth herein, signage shall meet the requirements of Section 13, Sign Regulations, of the City of Missouri City Zoning Ordinance for I Industrial district.
 1. Panel signs are permitted on the walls of buildings not facing streets. For purposes of this ordinance, a panel sign is defined as a flat sign without internal illumination excluding reader panel signs or signs with runners, slots or tracks in or on which changeable letters and numerals can be mounted.
 2. The background color of all panel signs shall be white. All other content within such panel signs may be of one or more colors.
 3. All signage on the walls of buildings facing streets shall be uniform in illumination throughout the site. All signage on the walls of buildings not facing streets shall be uniform in illumination throughout the site.

4. Applicant shall submit to the City a sign plan for review. The sign plan shall be approved by the City upon confirmation of compliance with the requirements of the City of Missouri City Zoning Ordinance and of this ordinance. Signage shall only be installed after approval of the sign plan.
- M. **Fence regulations.** The requirements of Section 14, Fence Regulations, for I Industrial district, shall apply to the subject tract.
- N. **Outside placement, storage, sales and services of materials, merchandise, and equipment.** Except as provided herein, the outside placement, storage, sales and services of materials, merchandise, and equipment regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
1. An outside placement area or an outside storage area not within view of a roadway or driveway used by the general public shall be screened from view by masonry walls or by wooden fencing. Masonry walls or wooden fencing shall be a minimum of six (6) feet in height. Masonry walls may have openings not exceeding ten percent (10%) of the wall surface for ventilation purposes.
 2. Access gates that are no wider than 12 feet wide are allowed within view of a roadway or driveway used by the general public. Approved gate designs for use on trash disposal areas may be used for such access gates.
 3. No materials, merchandise, or equipment may be placed or stored outside that is taller than the masonry walls or wooden fencing that screen the outside placement area.
- O. **Sidewalks.** Sidewalks shall meet the requirements of the City of Missouri City Infrastructure Code.
- P. **Development schedule.** Pursuant to Section 8, PD Planned Development District, this ordinance shall expire on the fifth anniversary of the date the first planned development application was filed if no progress has been made towards completion of this project.

Section 5. The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of the Property, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

Section 6. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification of the Property and the imposition of the findings, regulations, restrictions and conditions applicable to PD No. 55 contained herein.

Section 7. *Comprehensive plan deviation.* To the extent this Ordinance represents any deviation from the Future Land Use and Character map of the City of Missouri City Comprehensive Plan, such map is hereby amended to conform with this Ordinance.

Section 8. *Repeal.* Ordinance No. O-06-34, adopted on June 19, 2006, and any ordinance or parts of ordinances in conflict herewith shall be and are hereby repealed only to the extent of such conflict.

Section 9. *Penalty.* Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any of the provisions of this Zoning Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this Zoning Ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 10. *Severability.* In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 16th day of December, 2013.

PASSED, APPROVED and ADOPTED on second and final reading this 6th day of January, 2014.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney

ORDINANCE NO. O-~~13~~¹⁴-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING REGULATIONS IN PD PLANNED DEVELOPMENT DISTRICT NO. 55, CONSISTING OF A 25.776-ACRE TRACT OF LAND; DESCRIBING SAID 25.776-ACRE TRACT OF LAND; REGULATING AND RESTRICTING THE DEVELOPMENT AND USE OF PROPERTY WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MISSOURI CITY AS ADOPTED BY ORDINANCE NO. O-81-01 ADOPTED ON JANUARY 19, 1981, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN; PROVIDING FOR REPEAL; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, PD Planned Development District No. 55 ("PD No. 55") consists of a 25.776-acre tract of land situated within the corporate limits of the City of Missouri City, Texas (the "Property"), owned by Pike Road – Stafford L.P.; and

WHEREAS, the Property presently has a zoning classification of PD Planned Development District No. 55 pursuant to Ordinance No. O-81-01, adopted on January 19, 1981, as amended by Ordinance No. O-06-34, adopted on June 19, 2006; and

WHEREAS, Robert Lay-Su, as agent for Pike Road – Stafford L.P., has made application to the City of Missouri City to make amendments to PD No. 55, as authorized by the City of Missouri City Zoning Ordinance; and

WHEREAS, pursuant to Section 8.3 of the City of Missouri City Zoning Ordinance, said application was submitted to the City of Missouri City with proof of unified ownership or control of all of the Property; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on such requested amendments to PD No. 55; and

WHEREAS, the City of Missouri City Planning and Zoning Commission has issued its final report and the City Council of the City of Missouri City now deems it appropriate to grant such requested amendments to PD No. 55; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. As required by law, the City Council of the City of Missouri City conducted the public hearing on the request to amend PD No. 55 and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. The Property presently has a zoning classification of PD Planned Development District No. 55. The Property is more fully described as all of the land contained in the plat of Ingco Business Park a subdivision of land located in the City of Missouri City and recorded in the real property records of Fort Bend County as clerk's file no. 1176814.

Section 4. PD No. 55 shall be developed in accordance with the Missouri City Code and the City of Missouri City Zoning Ordinance and shall be developed subject to the following limitations, restrictions, and conditions:

- A. **Purpose.** PD No. 55 is comprised of a developed tract previously zoned I Industrial district, with an existing multiple building complex. Improvements to the site will be designed to complement the overall urban design and nature of the surrounding area.
- B. **Use regulations.** In PD No. 55, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged except as provided by this Ordinance. The following uses shall be permitted:
 - 1. I Industrial district.
- C. **Height and area regulations.** The height and area regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
- D. **Building regulations.** Except as set forth herein, all buildings and structures constructed shall comply with the building codes of the City of Missouri City. All buildings and structures within the planned development shall meet the requirements of Section 7A, Architectural Design Standards, City of Missouri City Zoning Ordinance, for architectural design zone I-1. Any use of temporary buildings, other than for construction trailers during construction, is prohibited.

1. **Building Material.** Polycarbonate multiwall sheets that are clear in color may be used.
- E. **Sound.** Sound emanating from uses located within the subject tract shall comply with the City of Missouri City Code of Ordinances. Additionally, the amplification of sound to the outside of buildings is prohibited.
- F. **Trash disposal areas.** Except as set forth herein, the requirements of Section 9.14 of the City of Missouri City Zoning Ordinance for I Industrial district shall apply in PD No. 55. Trash disposal areas shall be screened by masonry enclosures, a minimum of eight (8) feet in height.
- G. **Landscaping, screening and buffering.** The requirements of Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.
- H. **Utilities.** The provision and construction of utilities shall comply with the City of Missouri City Infrastructure Code.
- I. **Ingress and egress.** All driveways and off-street parking areas, including locations, shall comply with the City of Missouri City Infrastructure Code.
- J. **Lighting.** Lighting regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
- K. **Parking regulations.** The requirements of Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.
- L. **Signage.** Except as set forth herein, signage shall meet the requirements of Section 13, Sign Regulations, of the City of Missouri City Zoning Ordinance for I Industrial district.
 1. Panel signs are permitted on the walls of buildings not facing streets. For purposes of this ordinance, a panel sign is defined as a flat sign without internal illumination excluding reader panel signs or signs with runners, slots or tracks in or on which changeable letters and numerals can be mounted.
 2. The background color of all panel signs shall be white. All other content within such panel signs may be of one or more colors.
 3. All signage on the walls of buildings facing streets shall be uniform in illumination throughout the site. All signage on the walls of buildings not facing streets shall be uniform in illumination throughout the site.

4. Applicant shall submit to the City a sign plan for review. The sign plan shall be approved by the City upon confirmation of compliance with the requirements of the City of Missouri City Zoning Ordinance and of this ordinance. Signage shall only be installed after approval of the sign plan.
- M. **Fence regulations.** The requirements of Section 14, Fence Regulations, for I Industrial district, shall apply to the subject tract.
- N. ~~Outdoor sales, display, and storage. The outdoor sales, display, and storage~~Outside placement, storage, sales and services of materials, merchandise, and equipment. Except as provided herein, the outside placement, storage, sales and services of materials, merchandise, and equipment regulations for I Industrial district, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD No. 55.
1. An outside placement area or an outside storage area not within view of a roadway or driveway used by the general public shall be screened from view by masonry walls or by wooden fencing. Masonry walls or wooden fencing shall be a minimum of six (6) feet in height. Masonry walls may have openings not exceeding ten percent (10%) of the wall surface for ventilation purposes.
 2. Access gates that are no wider than 12 feet wide are allowed within view of a roadway or driveway used by the general public. Approved gate designs for use on trash disposal areas may be used for such access gates.
 3. No materials, merchandise, or equipment may be placed or stored outside that is taller than the masonry walls or wooden fencing that screen the outside placement area.
- O. **Sidewalks.** Sidewalks shall meet the requirements of the City of Missouri City Infrastructure Code.
- P. **Development schedule.** Pursuant to Section 8, PD Planned Development District, this ordinance shall expire on the fifth anniversary of the date the first planned development application was filed if no progress has been made towards completion of this project.

Section 5. The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of the Property, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

Section 6. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification of the Property and the imposition of the findings, regulations, restrictions and conditions applicable to PD No. 55 contained herein.

Section 7. *Comprehensive plan deviation.* To the extent this Ordinance represents any deviation from the Future Land Use and Character map of the City of Missouri City Comprehensive Plan, such map is hereby amended to conform with this Ordinance.

Section 8. *Repeal.* Ordinance No. O-06-34, adopted on June 19, 2006, and any ordinance or parts of ordinances in conflict herewith shall be and are hereby repealed only to the extent of such conflict.

Section 9. *Penalty.* Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any of the provisions of this Zoning Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this Zoning Ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 10. *Severability.* In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this ~~2nd~~16th day of December, 2013.

PASSED, APPROVED and ADOPTED on second and final reading this ~~16~~6th day of ~~December, 2013.~~January, 2014.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney

Document comparison by Workshare Professional on Thursday, December 19, 2013
5:13:03 PM

Input:	
Document 1 ID	file:///W:/Legal Department/Zoning/Zoning Map Amendments/PD 55 Chance Crossing Amendment/Ordinance.doc
Description	Ordinance
Document 2 ID	file:///W:/Legal Department/Zoning/Zoning Map Amendments/PD 55 Chance Crossing Amendment/Ordinance_Second Reading.doc
Description	Ordinance_Second Reading
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
<u>Moved from</u>	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	13
Deletions	6
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	19

ORDINANCE NO. O-06-34

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CHANGING THE ZONING CLASSIFICATION OF 25.776 ACRES OF LAND FROM I INDUSTRIAL DISTRICT TO PD PLANNED DEVELOPMENT DISTRICT NO. 55; REGULATING AND RESTRICTING THE USE, SIZE, HEIGHT AND DENSITY OF BUILDINGS, THE SIZE OF YARDS AND TYPE OF USE WITHIN SUCH PD PLANNED DEVELOPMENT DISTRICT; PROVIDING FOR CONSTRUCTION ACCORDING TO SAID PLAN; DESCRIBING SAID 25.776 ACRE TRACT OF LAND; AMENDING THE ZONING DISTRICT MAP OF THE CITY AS ADOPTED BY ORDINANCE NO. O-81-1 ADOPTED ON JANUARY 19, 1981, AS AMENDED; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * *

WHEREAS, Pike Road – Stafford L.P. is the owner, of a 25.776 acre tract of land situated within the corporate limits of the City of Missouri City, Texas; and

WHEREAS, said 25.776 acre tract of land presently has a zoning classification of I Industrial District under Ordinance No. O-81-1, adopted on January 19, 1981, the City of Missouri City Zoning Ordinance, as amended; and

WHEREAS, the owner has made application to the City of Missouri City to change the zoning classification of said 25.776 acre tract of land from I Industrial District to PD Planned Development District No. 55, as authorized by the City's Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Missouri City have each conducted, in the time and manner and after the notice required by law and the Zoning Ordinance of the City, a public hearing on such proposed change in the zoning classification; and

WHEREAS, the Planning and Zoning Commission has recommended and the City Council now deems it appropriate to grant such requested change in zoning classification; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The public hearing before City Council on such request for zoning reclassification is declared closed at final adoption of this Ordinance.

Section 3. Presently, said 25.776 acre tract of land has a zoning classification of I Industrial District. The zoning classification of said 25.776 acre tract of land is hereby changed from I Industrial District to PD Planned Development District No. 55. The 25.776 acre tract of land is more fully described in Exhibit "A" attached hereto and made a part hereof for all purposes.

Section 4. The designation of PD Planned Development District No. 55 shall be, and is, conditioned upon compliance with the following regulations and restrictions:

- A. **PURPOSE.** PD, Planned Development District No. 55 is comprised of a developed tract currently zoned I Industrial, with an existing multiple building complex. Improvements to the site will be designed to enhance the overall urban design and nature of the surrounding area.
- B. **USE REGULATIONS.** In PD, Planned Development District No. 55, no building, structure, or land shall be used and no building or structure shall be hereafter erected, reconstructed, altered or enlarged except as provided for in this Ordinance.

The following uses shall be permitted:

- 1. I Industrial.
- C. **HEIGHT AND AREA REGULATIONS.** The height and area regulations for I Industrial, contained in Section 7.13 of the Zoning Ordinance, shall apply in PD, Planned Development District No. 55.
- D. **BUILDING REGULATIONS.** All buildings and structures constructed shall comply with the building codes of the City of Missouri City.
- E. **SOUND.** Sound emanating from uses located within the subject tract shall comply with all City standards. Additionally, the amplification of sound to the outside of buildings shall be prohibited.
- F. **TRASH DISPOSAL, REFUSE AND SERVICE AREAS.** Trash disposal, refuse and service areas shall be located to the rear or side of buildings. Dumpsters and trash disposal areas shall be screened by masonry enclosures, a minimum of eight (8) feet in height, painted to match the exterior of the principal building. Gates for such enclosures shall be opaque and consist of metal, the color of which shall either match the surrounding predominant color or an approved trim color.

- G. LANDSCAPING, SCREENING, AND BUFFERING.** The requirements of Section 11, Landscaping, of the City of Missouri City Zoning Ordinance shall apply.
- H. UTILITIES.** The provision and construction of all utilities shall comply with the City of Missouri City Infrastructure Code.
- I. INGRESS AND EGRESS.** All driveways and off-street parking areas, including locations, shall comply with the City of Missouri City Infrastructure Code.
- J. LIGHTING.** Lighting shall comply with the City of Missouri City Code of Ordinances.
- K. OFF-STREET PARKING.** The requirements of Section 12, Parking Regulations, of the City of Missouri City Zoning Ordinance shall apply.
- L. SIGNAGE.** Except as set forth herein, signage shall meet the requirements of Section 13, Sign Regulations, of the City of Missouri City Zoning Ordinance for I Industrial Districts.
1. Panel signs are permitted on the walls of buildings not facing streets. For purposes of this ordinance, a panel sign is defined as a flat sign without internal illumination excluding reader panel signs or signs with runners, slots or tracks in or on which changeable letters and numerals can be mounted.
 2. The background color of all panel signs shall be white. All other content within such panel signs may be of one or more colors.
 3. All signage on the walls of buildings facing streets shall be uniform in illumination throughout the site. All signage on the walls of buildings not facing streets shall be uniform in illumination throughout the site.
 4. Applicant shall submit to the City a sign plan for review. The sign plan shall be approved by the City upon confirmation of compliance with the requirements of the City of Missouri City Zoning Ordinance and of this ordinance. Signage shall only be installed after approval of the sign plan.
- M. FENCE REGULATIONS.** The requirements of Section 14, Fence Regulations, for I Industrial Districts, shall apply to the subject tract.
- N. OUTDOOR SALES, DISPLAY AND STORAGE.** Outdoor sales, display or outdoor storage shall not be permitted within the subject tract.

O. SIDEWALKS. Sidewalks shall meet the requirements of the City Infrastructure Code.

Section 5. The Zoning District Map of the City of Missouri City shall be revised and amended to show the zoning classification of said 25.776 acre tract of land as provided in Section 3 hereof, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of this change.

Section 6. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Missouri City, save and except the change in zoning classification of the 25.776 acres of land described in Section 3 hereof and the imposition of the findings, regulations, restrictions and conditions applicable to PD Planned Development District No. 55 contained herein.

Section 7. **Penalty.** Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 5th day of June, 2006.

PASSED, APPROVED and ADOPTED on second and final reading this 19th day of June, 2006.

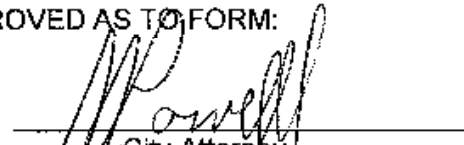


Mayor

ATTEST:


City Secretary

APPROVED AS TO FORM:


City Attorney

**INGCO BUSINESS
PARK**



A subdivision of 25.778 Acres of Land being the remainder of a call 29.5830 Acre Tract (Volume 1880, Page 238; Official Records of Fort Bend County, Texas), being the remainder of a call 10 Acre Tract (Volume 1880, Page 280; Official Records of Fort Bend County, Texas) and being the remainder of a call 18.256 Acre Tract (Volume 639, Page 506; Deed Records of Fort Bend County, Texas) being in the B.B.B. and C. Railroad Company Survey, Section No. 6, Abstract No. 117, City of Missouri City, Fort Bend County, Texas.

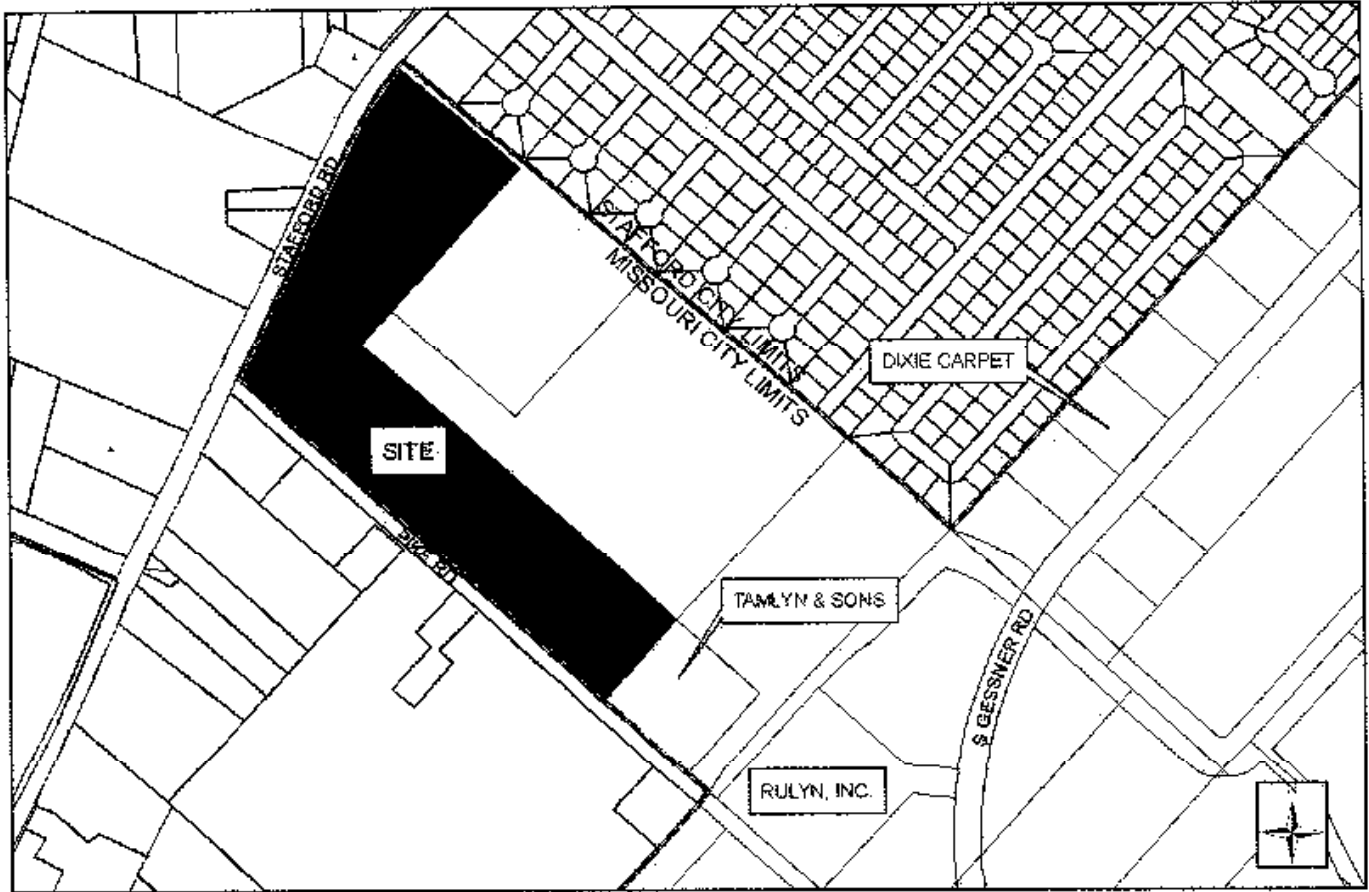
1. Quantitative • measurable

4000 E. CHANDLER TRAIL
 CHANDLER, ARIZONA 85226
 (602) 998-1111

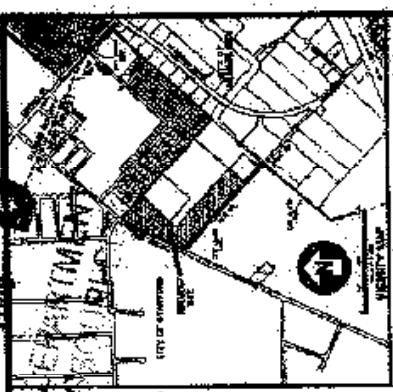
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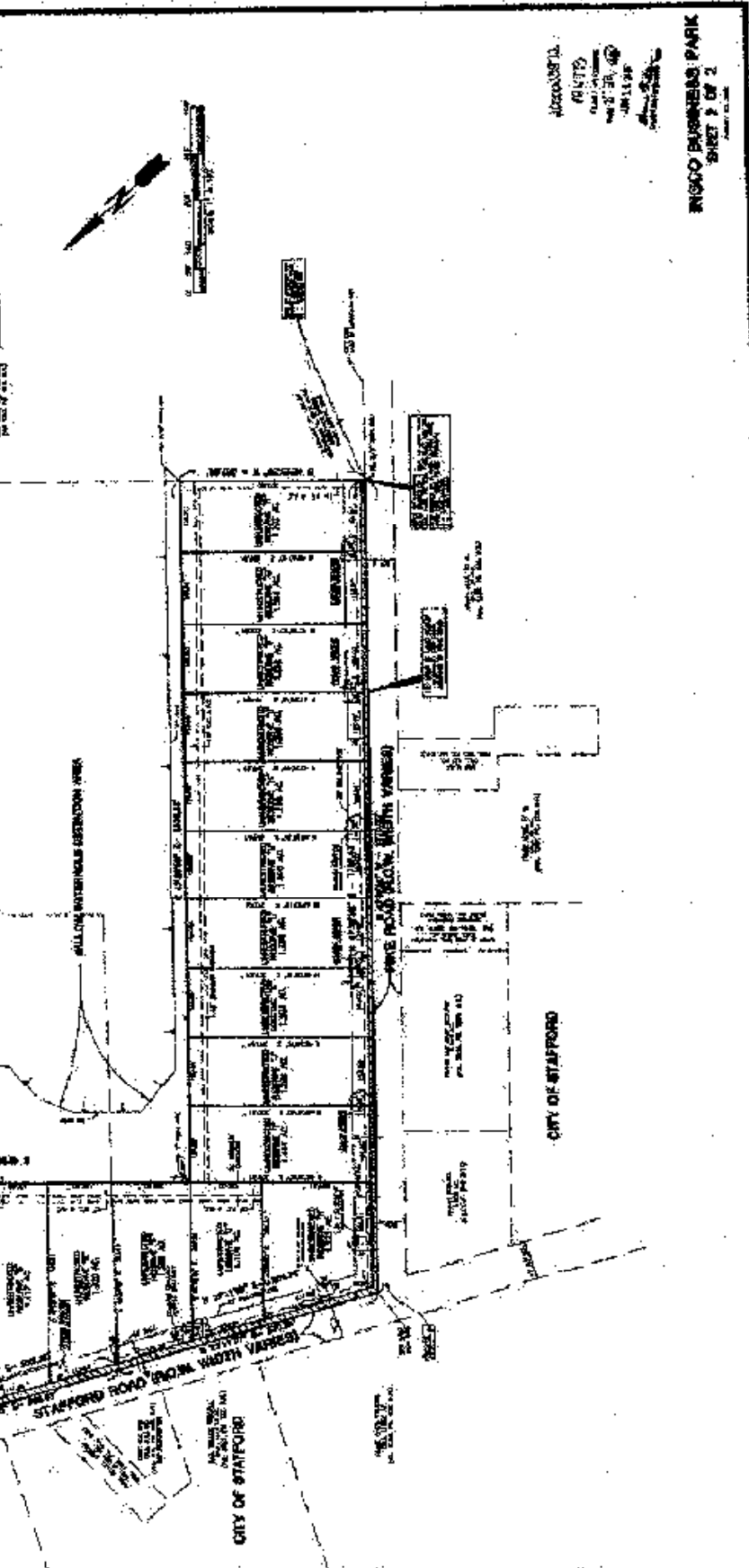
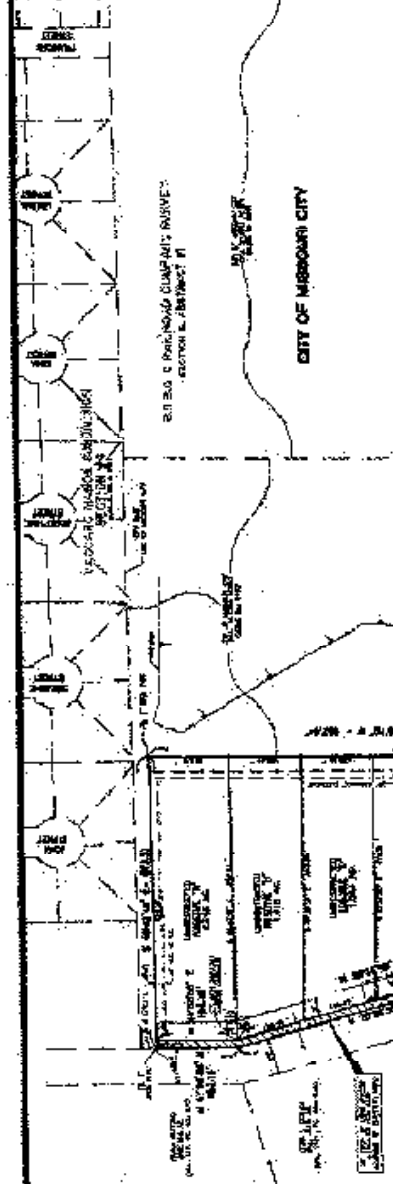
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SHEET 4 OF 2



NOV 20 2006



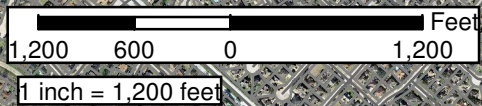
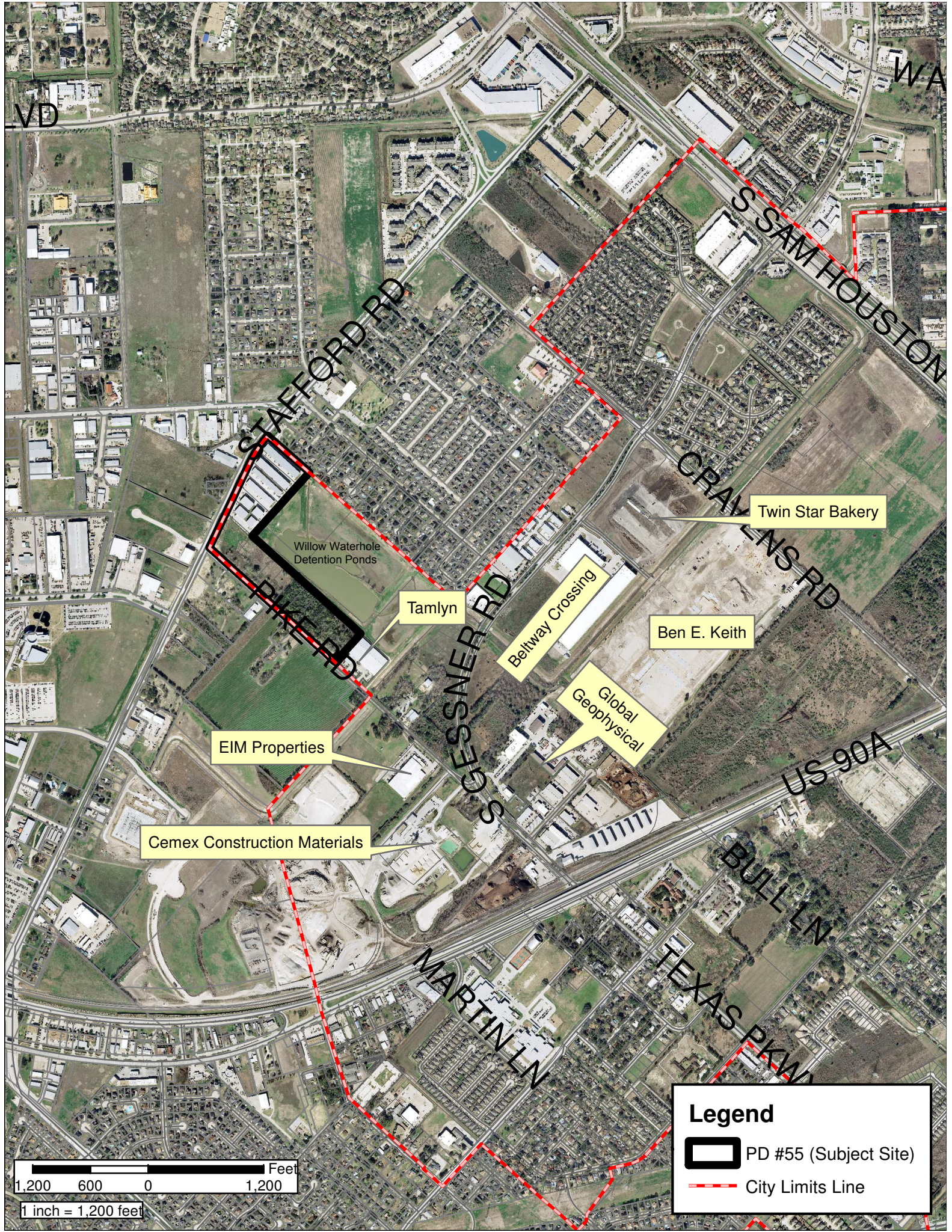
PLANNING DEPARTMENT
CITY OF MISSOURI CITY



MISSOURI
PLANNING
DEPARTMENT
CITY OF MISSOURI CITY

MISSOURI BUSINESS PARK
SHEET 1 OF 2





Legend

- PD #55 (Subject Site)
- City Limits Line



City of Missouri City

NOTICE OF PUBLIC HEARING

LOCATION/DATE: The City Council of the City of Missouri City will hold a public hearing on Monday, December 2, 2013, at the City Council Chambers – 2nd Floor, City Hall Building, 1522 Texas Parkway (FM-2234), Missouri City, Texas at 7:00 p.m.

PURPOSE: To receive comments for or against a request by LS&A Group, Inc. to amend the regulations and restrictions pertaining to PD, Planned Development District #55 and to the extent such rezoning deviates from the Future Land Use and Character map of the Comprehensive Plan, to provide for an amendment therefrom.

SITE LOCATION: The subject site is located north of Tamlyn, south of Stafford Road and east of Pike Road at the limits of the City of Missouri City, Texas.

SITE LEGAL DESCRIPTION: The subject site can be described as being a tract or parcel of land containing 25.776 acres of land being all of the Ingco Business Park Subdivision as shown in a plat deed recorded as clerk's file number 1176814 in the real property records of Fort Bend County.

FOR MORE INFORMATION: Additional information and a map of the subject site are available for review at City Hall, Missouri City, Texas on Monday through Friday from 8:00 a.m. to 4:00 p.m. You may call 281-403-8600 or email the Development Services Department-Planning Division at planning@missouricitytx.gov for further information.





**Council Agenda Item
January 6, 2014**

7. PUBLIC HEARINGS AND RELATED ACTIONS

- (b) Public Hearings and related actions** – *There are no Public Hearings and related actions on this agenda.*
-



Council Agenda Item Cover Memo
January 6, 2014

To: Mayor and City Council
Agenda Item: 8(a) Appointing member to the Fort Bend Subsidence District
Submitted by: Maria Gonzalez, City Secretary

SYNOPSIS

Consider making an appointment to the Fort Bend Subsidence District ("District") Board of Directors.

BACKGROUND

The Fort Bend Subsidence District has notified the City that the term of Mr. William Wallace, the City's representative to the district, will expire on January 31, 2014. Therefore, the District is requesting that Council either reappoint Mr. Wallace or appoint another qualified resident to the District. To be qualified, the member must be a resident of and qualified voter in the District.

Mr. Wallace has been contacted and is willing to continue his service as a Director. The District says Mr. Wallace has a good attendance record for Board meetings and serves as Secretary to the Board, Chair of their Finance Committee, and on the Regulatory Planning Committee.

The District has requested that the appointment be made by January 24, 2014.

FISCAL ANALYSIS

Not applicable.

SUPPORTING MATERIALS

1. Fort Bend Subsidence District Letter

STAFF'S RECOMMENDATION

Consider making an appointment to the Fort Bend Subsidence District Board of Directors.



FORT BEND SUBSIDENCE DISTRICT

P.O. Box 427, Richmond, Texas 77406-0427 (281) 342-3273

December 16, 2013

The Honorable Allen Owen
Mayor, City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

Dear Mayor Owen:

As General Manager of the Fort Bend Subsidence District, it is my responsibility to notify you that the term of office of William Wallace will expire on January 31, 2014. The City of Missouri City may reappoint Mr. Wallace for a two-year term. The law imposes certain qualifications on the member to be appointed by the City of Missouri City. The member must be a resident of and qualified voter in the District.

Your selection of a director is requested to be made by Friday, January 24, 2014. Please send your letter concerning the action taken by the City of Missouri City on this appointment.

Your interest in and support of the Subsidence District has been of great value to the District, and I look forward to working with you and your staff in the future. Please contact me if you have any questions concerning the Board appointment.

Sincerely yours,

Michael Turco
General Manager

MT/ws



Council Agenda Item Cover Memo

January 6, 2014

To: Mayor and City Council
Agenda Item: 9(a) Consider awarding a contract for the Mustang Bayou Water Plant No. 1 and No. 2 Improvements
Submitted by: Scott R. Elmer, P.E., Assistant City Manager
Robert D. Upton, P.E., Utilities Manager

SYNOPSIS

Staff desires to execute a contract for the Mustang Bayou Water Plant No. 1 and No. 2 improvements. This project comprises of the removal and replacement of a 246,000 gallon groundwater storage tank, rehabilitation of a 600,000 gallon groundwater storage tank and rehabilitation of two hydro-pneumatic tanks. The contract is over \$25,000.00 and therefore requires Council action.

BACKGROUND

The City conducted an inspection and tank cleaning for each of the storage tanks and hydro-pneumatic tanks located at the Mustang Bayou Water Plant No. 1 and Plant No. 2 in February 2013. The process included draining each of the tanks, cleaning any sand and material out of the tank, inspecting the interior coatings, disinfecting the tanks and putting them back in service. The inspection process generated a report of findings for each type of tank from the inspector (Dunham Engineering).

The reports indicated that two of the four groundwater storage tanks and two of the four hydro-pneumatic tanks need to have immediate attention. The 600,000 gallon groundwater tank located at the Mustang Bayou Plant No. 1 showed signs of deterioration in the floor which has resulted in pinholes in the metal that was causing the tank to leak. Staff temporarily patched the holes in the tank floor while permanent repairs and design plans were being developed. The 246,000 gallon tank at the Mustang Bayou Plant No. 2 (formally Vicksburg) has reached its useful life and is in need of replacement. The two hydro-pneumatic tanks located at the Mustang Bayou Plant No. 2 show signs of interior coating failure.

Specifications were developed by Binkley and Barfield Consulting Engineers and let out for bid. The IFB was formally advertised in The Independent on November 20 and 27. A pre-bid meeting was held on December 3 and eight general contractors expressed interest in the project. There were four (4) bids received and opened on December 12. The design engineer and staff reviewed and evaluated the bids, and it was determined that the bid submitted by H2O Steel Contractors of Waxahachie was the lowest responsible bid submitted.

H2O Steel Contractors is headquartered in Waxahachie, TX and has completed several water storage tanks and is currently under contract for several elevated storage tank projects in the water field. Staff considers H2O Steel Contractors a responsible contractor.

Their bid of \$416,000.00 included the removal and replacement of a 246,000 gallon groundwater storage tank, rehabilitation of a 600,000 gallon groundwater storage and the rehabilitation of two hydro-pneumatic tanks. Work is expected to be final complete within 150 calendar days after a notice of proceed is given by the City.

FISCAL ANALYSIS

These are funds out of the Mustang Bayou capital fund, which were already on hand. They were budgeted from this fund during the budget development.

Purchasing File #	Funding Source	Account Number	Project # / Name	FY14 Funds Budgeted	FY14 Funds Available	Amount Requested
N/A	Bond	532-50-525-77002	80015/ Mustang Bayou Plant #2 GST Replacement	\$390,000	\$390,000	\$324,500
N/A	Bond	532-50-525-77002	80018/ Mustang Bayou Plant #1 GST Repairs	\$100,000	\$100,000	\$91,500

SUPPORTING MATERIALS

1. Bid Tabulation

STAFF'S RECOMMENDATION

Award a contract with H2O Steel Contractors in the amount of \$416,000.00 (without accepting the bid alternative) to remove and replace a 246,000 gallon groundwater storage tank, rehabilitate a 600,000 gallon storage tank and rehabilitate two hydro-pneumatic tanks.

IFB 033-14 Mustang Bayou Water Plant No. 1 & No. 2 - Bid Tabulation Sheet		Co. Name		H2O Steel Contractors, LLC	Gemini Contracting Services, Inc.	Blastco Texas, Inc.	W.W. Payton Corporation
		Contact		Rick Peel	Jim VanSchuyver	Steve Wissing	Wesley W. Payton
		Address		2000 Howard Road, Waxahachie, TXZ 75165	12660 La Rochelle, Houston, Texas 77015	5514 East Hampton, Houston, TX 77039	30655 FM 529 - Brookshire, Texas, 77492-1056
		Phone, Fax		972-938-2730;	713-453-4691	281-590-3200	281-371-7068; 469-568-1119
		Email		rick@h2osteel.com	info@gemini-contracting.com	steve.wissing@twarren.com	cpayton@wwpayton.com
		Bid Bond		Yes	Yes	Yes	Yes
		Acknowledged Addundums		Yes	Yes	Yes	Yes
ITEM	Description	Qty.	Unit	Price	Price	Price	Price
Mustang Bayou Water Plant #1 Improvements							
BB-1	Mobilization and Demobilization: complete in place, including all associated laydown, site preparation, existing GST temporary decommissioning assistance, and site restoration (if applicable) in full accordance with the Drawings and Specifications.	1	LS	\$4,500.00	\$12,000.00	\$5,000.00	\$5,000.00
BB-2	Existing GST Interior Coating: complete in place, including all associated blast cleaning, tank repairs, gasket trimming, coatings application, disinfection, testing and re-commissioning, in full accordance with the Drawings and Specifications.	1	LS	\$87,000.00	\$75,000.00	\$90,000.00	\$125,000.00
Mustang Bayou Water Plant #2 Improvements							
BB-3	Mobilization and Demobilization: complete in place, including all associated laydown, site preparation, existing GST temporary decommissioning assistance, and site restoration (if applicable) in full accordance with the Drawings and Specifications.	1	LS	\$4,500.00	\$12,000.00	\$5,000.00	\$8,000.00
BB-4	Existing GST Demolition: complete in place, including all associated demolition, removal and offsite disposal, in full accordance with the Drawings and Specifications.	1	LS	\$25,000.00	\$12,000.00	\$10,000.00	\$10,000.00
BB-5	New Welded Steel GST Construction: complete in place, including all associated fabrication, erection, installation, piping, valves, fittings, appurtenances, blast cleaning, coatings applications, disinfection, testing and commissioning, in full accordance with the Drawings and Specifications.	1	LS	\$272,000.00	\$300,000.00	\$330,000.00	\$422,000.00
BB-6	Existing 15,000 Gallon Hydro-Pneumatic Tank Interior Coating: complete in place, including all associated temporary decommissioning assistance, blast cleaning, coatings application, cleaning, disinfection, testing and re-commissioning, in full accordance with the Drawings and Specifications.	1	LS	\$9,500.00	\$12,000.00	\$10,000.00	\$28,000.00
BB-7	Existing 25,000 Gallon Hydro-Pneumatic Tank Interior Coating: complete in place, including all associated temporary decommissioning assistance, blast cleaning, coatings application, cleaning, disinfection, testing and re-commissioning, in full accordance with the Drawings and Specifications.	1	LS	\$13,500.00	\$15,000.00	\$12,500.00	\$32,000.00
	TOTAL BASE BID			\$416,000.00	\$438,000.00	\$462,500.00	\$630,000.00
BA-1	New Glass Coated Bolted Steel GST Construction: complete in place, including all associated fabrication, erection, installation, piping, valves, fittings, appurtenances, disinfection, testing and commissioning, in full accordance with the Drawings and Specifications. * NOTE: Selection of Bid Alternate Item BA-1 shall replace Base Bid Item BB-5 in its entirety.	1	LS	\$350,000.00	\$300,000.00	\$365,500.00	\$422,000.00
	TOTAL ALTERNATE BID			\$350,000.00	\$300,000.00	\$365,500.00	\$422,000.00



Council Agenda Item Cover Memo January 06, 2014

To: Mayor and City Council
Agenda Item: 9(b) Consider authorizing the City Manager to execute the Termination and Revocation of the Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association, Inc.
Submitted by & Prepared by: Scott R. Elmer, P.E., Assistant City Manager
Sharon Valiante, Assistant Director of Public Works

SYNOPSIS

Consider authorizing the City Manager to execute the Termination and Revocation of the Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association, Inc. ("BCDMA").

BACKGROUND

The BCDMA was established in 1984 with 8-10 commercial members, including the City of Missouri City ("City"), for the purpose of providing an organization to uphold commercial development standards to approximately 41 acres of land. However, with the recent development of Waterford Park Townhomes, members now include 80 individual residential property owners. The BCDMA board of directors has determined that the City's zoning and architectural standards are now more than adequate to protect the property owners and property values within the city. After considering several options, the board recommends that BCDMA be dissolved and the restrictive covenants be terminated.

The BCDMA requests the City to execute the Termination and Revocation of the Declaration of Protective Covenants for Brightwater Commercial Development Maintenance Association document. Once the restrictions have being terminated, BCDMA board will hold a meeting to vote on dissolving the association.

FISCAL ANALYSIS

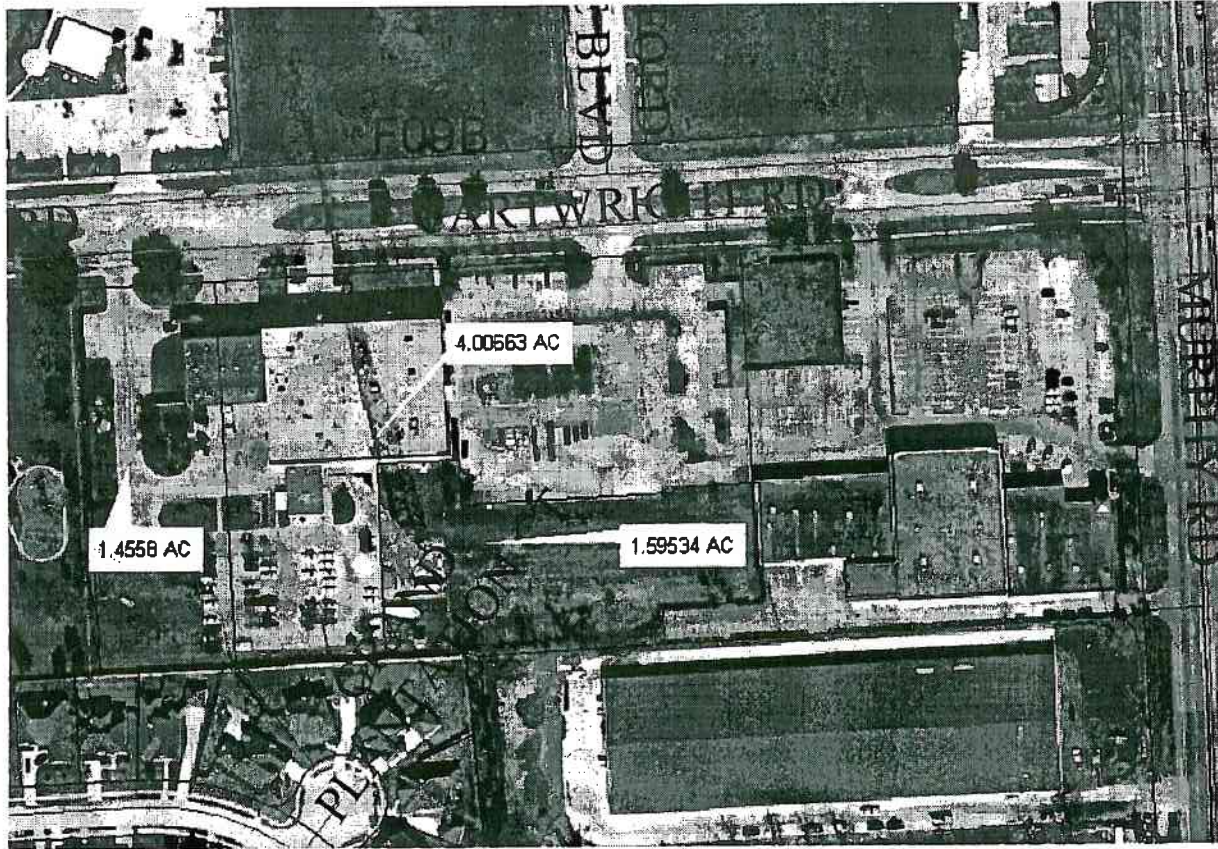
If terminated: Mowing, tree and irrigation maintenance: estimated at \$1200/year

Supporting Documentation

1. Ownership ortho map of City's interest (approximately 7 acres)
2. Letter – Nov 4, 2013, BCDMA; Notification of request to vote
3. Termination and Revocation document

STAFF'S RECOMMENDATION

Authorize the City Manager to execute the Termination and Revocation of the Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association, Inc.



**BRIGHTWATER COMMERCIAL DEVELOPMENT
MAINTENANCE ASSOCIATION, INC.
CREST MANAGEMENT COMPANY
17171 PARK ROW, SUITE 310
HOUSTON, TEXAS 77084
TELEPHONE: 281/579-0761 FAX: 281/579-7062**

November 4, 2013

The City of Missouri City
1522 Texas Parkway
Missouri City, TX 77459

RE: 6.870 Acres
 Missouri City, Texas

Dear Property Owner:

We are writing today to ask for your vote on matters regarding the Brightwater Commercial Development Maintenance Association ("BCDMA") in which the above referenced property is located. Here is a brief summary of the history and current status:

The BCDMA was established 1984 with the purpose to provide an organization to uphold commercial development standards and to maintain certain lands within the almost 41 acres included. Much has changed in Missouri City over the last 30 years and a few recent developments inside the BCDMA have caused us to reevaluate the organization's purpose and role, which is why we are approaching you at this time.

First, the original acreage included in the BCDMA was considered to be commercial land, and most of the land has been developed as, or is currently zoned for, commercial uses. However, the Brightwater Townhomes were developed recently and, although the developer of the townhomes had been the contact person and the responsible party for all costs of the BCDMA, the BCDMA documents state that each townhome owner is a member of the association. So the BCDMA has grown from around eight to ten commercial members to over eighty individual owners, most of whom are residential members.

The board of the association has worked hard over the last few years to minimize the expenses of the BCDMA and reduced the annual fees to each owner. A large factor in our ability to do that was the relatively small number of (i) fee-collection issues and (ii) calls from members to the management company. As you might imagine, it is now entirely different with 75 new residential members.

Second, different than in 1984, the City of Missouri City ("COMC") is now very well organized and has both strict zoning and architectural standards in place. These standards are more than adequate to protect all COMC property owners and property values. Therefore, the board of the BCDMA feels that the primary purpose and role of the BCDMA is now being fulfilled by the COMC.

Over the last few months, the board considered whether or not it was commercially viable and necessary to continue the operations of the BCDMA. Options considered included instituting a \$50.00-\$75.00 per owner invoicing/collection fee, overall increasing of the associations fees, and complete termination of the association. After careful thought and legal review, it is now the opinion of the board of directors that it is time to terminate the BCDMA, and along with that, its restrictive covenants, and the board is making such recommendation to the members. This will be a two-step process. The first step is to terminate the restrictive covenants. We have attached a copy of the Termination and Revocation of The Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association. Please review and execute this document and return it to us at the address noted below. Once the restrictions have been terminated, we will call a brief membership meeting to vote on the termination of the association.

At this time, please do the following:

1. Review the Termination and Revocation of The Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association;
2. Fill out the Signature Block for Commercial Property Owners;
3. Sign as an Authorized Representative;
4. Mail the executed document back to us in the enclosed self-addressed envelope:

Ms. Carolyn Bonds
Crest Management Company
17171 Park Row, Suite 310
Houston, Texas 77084
Attention: Brightwater Commercial

Should you have any questions regarding this effort or the documentation, please call Carolyn Bonds at 281-579-0761, Ext. 611

Thank you,

The Board of the Brightwater Commercial
Development Maintenance Association

**TERMINATION AND REVOCATION OF
THE DECLARATIONS OF PROTECTIVE COVENANTS FOR
BRIGHTWATER COMMERCIAL DEVELOPMENT
MAINTENANCE ASSOCIATION**

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FORT BEND §

WHEREAS, on March 26, 1984, the Lake Limited, a Texas limited partnership, (the Declarant) filed and recorded that certain Declaration of Protective Covenants (the Prior Declaration) which Prior Declaration is filed for record in the Official Records of Fort Bend County, Texas under File No. 13841 and recorded under Film Code Reference No. 1405-253 imposing on the 15.316 acres described on Exhibit A to the Prior Declaration (the Initial Tract) the provisions of the Prior Declaration.

WHEREAS, Declarant and Brightwater Joint Venture, a Texas Joint Venture (Brightwater) executed that certain First Amendment to Declaration of Protective Covenants (First Amendment) which First Amendment was filed for record in the Official Records of Fort Bend County, Texas under File No. 40000 and which amended the Prior Declaration in certain respects, such Prior Declaration as amended by the First Amendment being herein referred to as the Amended Declaration.

WHEREAS, Section 2.02b of the Amended Declaration provides for the organization of the Brightwater Commercial Development Maintenance Association (Association) and that Corporation was incorporated on February 29, 1984 and is serving as the Association pursuant to the Amended Declaration.

WHEREAS, Section 3.03b of the Amended Declaration authorizes the Declarant to annex additional properties within the area described in Exhibit B to the Amended Declaration upon approval of the Board of Directors of the Association and to accomplish such annexation by filing of record a Declaration of Protective Covenants with respect to the additional land extending the plan of the Amended Declaration to such additional land and imposing the other provisions of the Amended Declaration and the additional covenants contained herein on such additional land.

WHEREAS, by Annexing Declaration of Protective Covenants dated September 4, 1984 and filed for record in the Official Records of Fort Bend County, Texas under File No. 44858, at Volume 1521, Page 39 (First Annexing Declaration), Declarant and the Board of Directors of the Association annexed the ten acre tract described on Exhibit A to the First Annexing Declaration (First Annexed Tract).

WHEREAS, by Second Annexing Declaration of Protective Covenants dated January 18, 1985 and filed for record in the Official Records of Fort Bend County, Texas under File No. 8503578 at Volume 1598, Page 782 (Second Annexing Declaration) Declarant and the Association annexed the 18.452 acre tract described on Exhibit A to the Second Annexing Declaration (Second Annexed Tract).

WHEREAS, it is provided in Article 12.02(A)(ii) of the Prior Declaration, the First Annexing Declaration and the Second Annexing Declaration, that the owners of 75% of the total acreage of the Properties (other than the Common Area) may terminate the restrictions during the 11th through the 35th year of the Declarations by executing an instrument to that effect.

NOW, THEREFORE, the Association and the owners of 75% of the total acreage of the property do hereby TERMINATE, REVOKE and render VOID all of the restrictions, reservations and other provisions contained in the Prior Declaration, the Amended Declaration, the First Annexing Declaration and the Second Annexing Declaration as such restrictions apply to the property identified and described in each Declaration.

EXECUTED in multiple counterparts, on the dates indicated, all of which together shall for all purposes constitute one document, binding on all parties listed below, notwithstanding that all parties below may have not signed the same counterpart.

BRIGHTWATER COMMERCIAL
DEVELOPMENT MAINTENANCE
ASSOCIATION

By: _____,
_____, President

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the ____ day of _____, 2013,
_____, President of Brightwater Commercial Development Maintenance
Association, a Texas non-profit corporation, on behalf of said corporation.

NOTARY PUBLIC in and for the
STATE OF TEXAS

SIGNATURE LINE FOR COMMERCIAL PROPERTY OWNER

OWNER'S NAME: _____

PROPERTY ADDRESS: _____

ACREAGE: _____

Signature of Authorized Representative: _____
Insert Printed Name, its Insert Title

STATE OF TEXAS §
COUNTY OF FORT BEND §

The foregoing instrument was acknowledged this _____ day of _____, 2013,
by _____. *Identify and type owner's name here.*

NOTARY PUBLIC in and for the
STATE OF TEXAS

OWNER'S NAME: _____

PROPERTY ADDRESS: _____

ACREAGE: _____

Signature of Authorized Representative: _____
Insert Printed Name, its Insert Title

STATE OF TEXAS §
COUNTY OF FORT BEND §

The foregoing instrument was acknowledged this _____ day of _____, 2013,
by _____. *Identify and type owner's name here.*

NOTARY PUBLIC in and for the
STATE OF TEXAS

AFTER RECORDING
RETURN TO:



Council Agenda Item Cover Memo January 06, 2014

To: Mayor and City Council
Agenda Item: 9(c) Consider authorizing staff to represent the City's interest at the Brightwater Commercial Development Maintenance Association, Inc. ("BCDMA") membership meeting.

**Submitted by &
Prepared by:** Scott R. Elmer, P.E., Assistant City Manager
Sharon Valiante, Assistant Director of Public Works

SYNOPSIS

Consider authorizing staff member to represent the City's interest at Brightwater Commercial Development Association, Inc. ("BCDMA") membership meeting.

BACKGROUND

The BCDMA was established in 1984 with 8-10 commercial members, including the City of Missouri City ("City"), for the purpose of providing an organization to uphold commercial development standards to approximately 41 acres of land. However, with the recent development of Waterford Park Townhomes, members now include 80 individual residential property owners. The BCDMA board of directors has determined that the City's zoning and architectural standards are now more than adequate to protect the property owners and property values within the city. After considering several options, the board recommends that BCDMA be dissolved and the restrictive covenants be terminated.

Since the City owns seven (7) acres of land, it is entitled to seven (7) votes per item on BCDMA's agenda. As such, the City needs a representative at BCDMA meeting when it votes on the dissolution of BCDMA. Previous representatives: Councilwoman Barbara Gibson (Primary-2007), Director of Public Works Scott R. Elmer, P.E. (Alternate -2007), and Assistant Director of Public Works, Sharon Valiante (2006)

FISCAL ANALYSIS

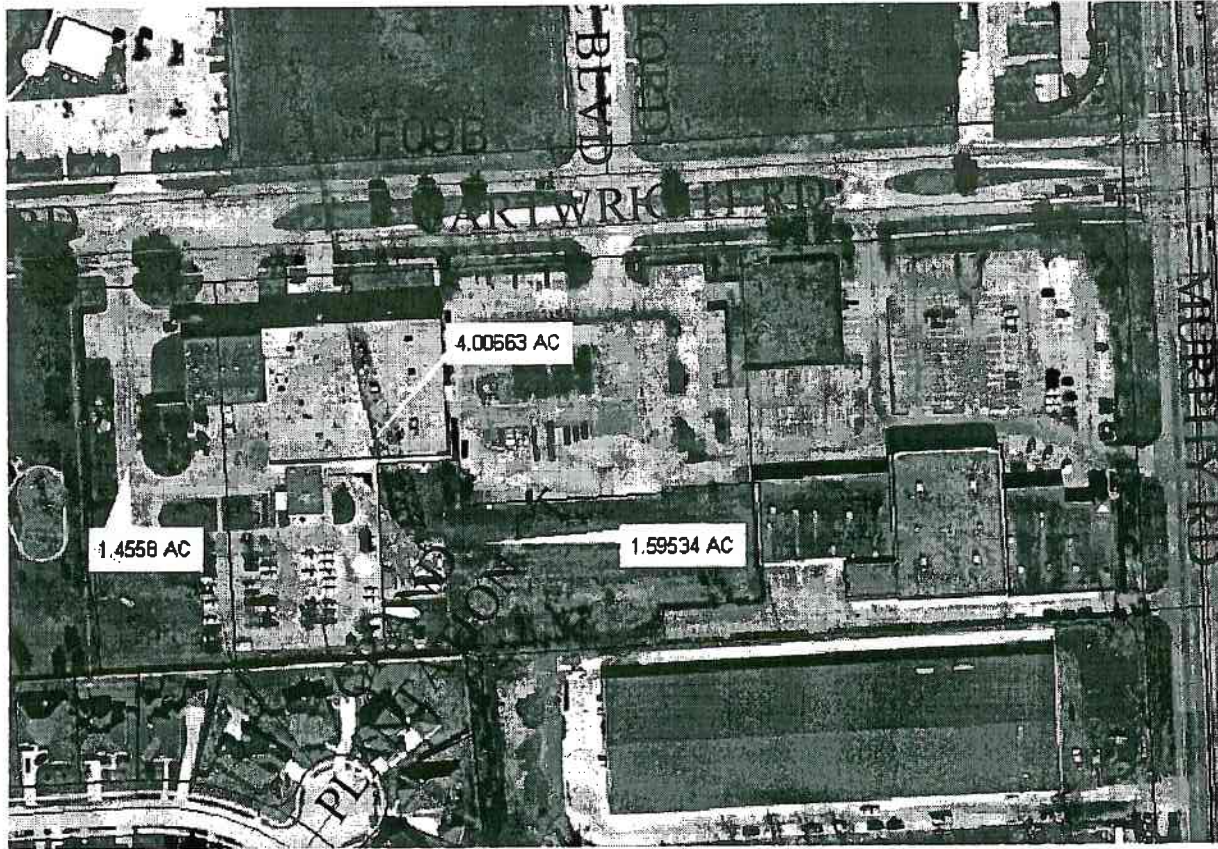
If terminated: Mowing, tree and irrigation maintenance along Cartwright Road to serve the medians: estimated at \$1200/year.

Supporting Documentation

1. Ownership of City's interest (approximately 7 acres)
2. Letter – Nov 4, 2013, BCDMA; Notification of request to vote

STAFF'S RECOMMENDATION

Authorize City staff, Scott R. Elmer, P.E., as primary, and Sharon Valiante, as alternate, to represent the City's interest at the Brightwater Commercial Development Maintenance Association, Inc. membership meeting.



**BRIGHTWATER COMMERCIAL DEVELOPMENT
MAINTENANCE ASSOCIATION, INC.
CREST MANAGEMENT COMPANY
17171 PARK ROW, SUITE 310
HOUSTON, TEXAS 77084
TELEPHONE: 281/579-0761 FAX: 281/579-7062**

November 4, 2013

The City of Missouri City
1522 Texas Parkway
Missouri City, TX 77459

RE: 6.870 Acres
 Missouri City, Texas

Dear Property Owner:

We are writing today to ask for your vote on matters regarding the Brightwater Commercial Development Maintenance Association ("BCDMA") in which the above referenced property is located. Here is a brief summary of the history and current status:

The BCDMA was established 1984 with the purpose to provide an organization to uphold commercial development standards and to maintain certain lands within the almost 41 acres included. Much has changed in Missouri City over the last 30 years and a few recent developments inside the BCDMA have caused us to reevaluate the organization's purpose and role, which is why we are approaching you at this time.

First, the original acreage included in the BCDMA was considered to be commercial land, and most of the land has been developed as, or is currently zoned for, commercial uses. However, the Brightwater Townhomes were developed recently and, although the developer of the townhomes had been the contact person and the responsible party for all costs of the BCDMA, the BCDMA documents state that each townhome owner is a member of the association. So the BCDMA has grown from around eight to ten commercial members to over eighty individual owners, most of whom are residential members.

The board of the association has worked hard over the last few years to minimize the expenses of the BCDMA and reduced the annual fees to each owner. A large factor in our ability to do that was the relatively small number of (i) fee-collection issues and (ii) calls from members to the management company. As you might imagine, it is now entirely different with 75 new residential members.

Second, different than in 1984, the City of Missouri City ("COMC") is now very well organized and has both strict zoning and architectural standards in place. These standards are more than adequate to protect all COMC property owners and property values. Therefore, the board of the BCDMA feels that the primary purpose and role of the BCDMA is now being fulfilled by the COMC.

Over the last few months, the board considered whether or not it was commercially viable and necessary to continue the operations of the BCDMA. Options considered included instituting a \$50.00-\$75.00 per owner invoicing/collection fee, overall increasing of the associations fees, and complete termination of the association. After careful thought and legal review, it is now the opinion of the board of directors that it is time to terminate the BCDMA, and along with that, its restrictive covenants, and the board is making such recommendation to the members. This will be a two-step process. The first step is to terminate the restrictive covenants. We have attached a copy of the Termination and Revocation of The Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association. Please review and execute this document and return it to us at the address noted below. Once the restrictions have been terminated, we will call a brief membership meeting to vote on the termination of the association.

At this time, please do the following:

1. Review the Termination and Revocation of The Declarations of Protective Covenants for Brightwater Commercial Development Maintenance Association;
2. Fill out the Signature Block for Commercial Property Owners;
3. Sign as an Authorized Representative;
4. Mail the executed document back to us in the enclosed self-addressed envelope:

Ms. Carolyn Bonds
Crest Management Company
17171 Park Row, Suite 310
Houston, Texas 77084
Attention: Brightwater Commercial

Should you have any questions regarding this effort or the documentation, please call Carolyn Bonds at 281-579-0761, Ext. 611

Thank you,

The Board of the Brightwater Commercial
Development Maintenance Association



Council Agenda Item Cover Memo
January 6, 2014

To: Mayor and City Council
Agenda Item: 10(a) Consider an ordinance amending the rules and regulations related to food service regulations.
Submitted by: Gary W. Smith, Director of Development Services
Ryan M. Stults, Assistant City Attorney

SYNOPSIS

This ordinance amends the City's food establishment rules so that certain food producers are exempt from City regulation. This change is recommended in order to make the City's regulations consistent with state law.

BACKGROUND

Section 437.0192 of the Texas Health and Safety Code prohibits a City from regulating the production of food at a cottage food production operation. The Health and Safety Code defines a cottage food production operation as an individual, operating out of the individual's home, who produces at the individual's home certain foods; has an annual gross income of \$50,000 or less from the sale of such foods; sells the foods produced only directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event; and delivers products to the consumer at the point of sale or another location designated by the consumer.

The proposed amendment to Chapter 18 of the City's Code of Ordinances makes the City regulations consistent with state law. Accordingly, this ordinance exempts cottage food production operations from the definition of food service establishments.

FISCAL ANALYSIS

No fiscal impact is anticipated.

SUPPORTING MATERIALS

1. Ordinance

STAFF'S RECOMMENDATION

Approve the ordinance on the first of two readings.

ORDINANCE NO. O-14-__

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS,
AMENDING CHAPTER 18, BUSINESSES, OF THE MISSOURI CITY
CODE; AMENDING THE RULES AND REGULATIONS RELATED TO
FOOD SERVICE REGULATIONS; PROVIDING FOR REPEAL;
PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Section 437.0192 of the Texas Health and Safety Code provides that the City of Missouri City, Texas, may not regulate the production of food at a cottage food production operation; and

WHEREAS, the City of Missouri City, Texas, desires to comply with the law and exempt cottage food production operations; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Missouri City Code is hereby amended by deleting Section 18-102 of Division 4 of Article II of Chapter 18 thereof and substituting therefor a new Section 18-102 of Division 4 of Article II of Chapter 18 to provide as follows:

"Chapter 18 – BUSINESSES

....

ARTICLE II. FOOD SERVICE

....

DIVISION 4. REGULATIONS

....

Sec. 18-102. Amendments to state rules on food service sanitation.

The 2006 Edition of the Texas Food Establishment Rules adopted in section 18-101 is hereby amended in the following respects:

(1) Subsection 229.162(5) is hereby deleted.

(2) Subsection 229.162(40)(A) is hereby amended to provide as follows:

§ 229.162. Definitions. The following definitions apply in the interpretation and application of this Code.

(40) Food establishment-

(A) Food establishment means an operation:

(i) that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption; and

(ii) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(3) Subsection 229.162(40)(C) is hereby amended to provide as follows:

§ 229.162. Definitions. The following definitions apply in the interpretation and application of this Code.

(40) Food establishment-

(C) Food establishment does not include:

(i) a produce stand that only offers whole, uncut fresh fruits and vegetables;

(ii) a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law;

(iii) an area where food that is prepared as specified in subparagraph (C)(ii) of this paragraph is sold or offered for human consumption;

(iv) a catered feeding location if the location provides food at a private event;

(v) a private home that receives catered or home-delivered food; or

(vi) a home cottage food production operation as that term is defined in Section 437.001 of the Texas Health and Safety Code, as amended.

(4) Section 229.174 is hereby deleted.”

Section 3. *Repeal.* Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 4. *Penalty.* Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any provision of this zoning ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or of premises where any violation of this zoning ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 5. *Severability.* In the event any section, paragraph, subdivision, clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 6th day of January, 2014.

PASSED, APPROVED and ADOPTED on second and final reading this 20th day of January, 2014.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney



Council Agenda Item Cover Memo
January 6, 2014

To: Mayor and City Council
Agenda Item: 10(b) Consider an ordinance amending Chapter 18, Businesses, of the Missouri City Code, providing rules and regulations for metal recycling and crafted precious metal dealers.
Submitted by: Dwayne Williams, Captain

SYNOPSIS

The proposed ordinance will provide rules and regulations for metal recycling and crafted precious metal dealers.

BACKGROUND

The Missouri City Police Department routinely investigates criminal offenses in which crafted precious and other metals are targeted for theft because of their high value. After being stolen, these metals are then sold to metal recycling or crafted precious metal dealers. Successful criminal investigations regarding these metal thefts or burglaries are extremely challenging due to poor recordkeeping.

Chapter 1956 of the Texas Occupations Code provides some regulations relating to metal recycling and crafted precious metal businesses. The proposed ordinance would require metal recycling and crafted precious metal dealers: (1) to obtain a dealer permit from the City; (2) to allow peace officers or city representatives to inspect a metal recycling or crafted precious metal business; and (3) to report all business transactions via a web-based database designated by the chief of police. These regulations would (1) assist law enforcement officers in their criminal investigations regarding metal thefts, (2) reduce metal theft crimes, and (3) help to recover stolen property.

FISCAL ANALYSIS

At second reading, a resolution will be proposed to establish a fee for issuance of the permit. The permit fee will be set to recover the cost to the City of administration and enforcement of the ordinance.

SUPPORTING MATERIALS

1. Ordinance

STAFF'S RECOMMENDATION

Approve the ordinance on the first of two readings.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 18, BUSINESSES, OF THE MISSOURI CITY CODE; PROVIDING RULES AND REGULATIONS FOR METAL RECYCLING AND CRAFTED PRECIOUS METAL DEALERS; REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

*

*

*

WHEREAS, the City of Missouri City Police Department routinely investigates criminal offenses in which precious and scrap metals are targeted due to their high value; and

WHEREAS, the nature of the metal recycling and crafted precious metal industries may tend to encourage crimes involving burglary, fraud, money laundering, and theft, and

WHEREAS, regulating metal recycling and crafted precious metal dealers may prevent stolen property transactions and assist law enforcement officers in their investigations of crimes; and

WHEREAS, Texas law regulates some aspects of the metal recycling and crafted precious metal industries such as recordkeeping, registration, and reporting requirements; and

WHEREAS, the City of Missouri City has a substantial interest in establishing additional rules and regulations for metal recycling and crafted precious metal businesses to protect the health, safety, and welfare of Missouri City residents; and

WHEREAS, providing certain metal recycling and crafted precious metal regulations, including business hours, electronic recordkeeping and reporting, exterminating, perimeter security, and permitting may improve the health, safety and welfare of the City of Missouri City residents and businesses; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Missouri City Code is hereby amended by adding a new Article IX of Chapter 18 thereof to provide as follows:

“Chapter 18 – BUSINESSES

.

ARTICLE IX. METAL RECYCLING AND CRAFTED PRECIOUS METAL DEALERS

DIVISION 1. GENERALLY

Sec. 18-801. Purpose.

The purpose of this article is to promulgate and implement regulations to assist law enforcement in criminal investigations regarding metals theft and to prevent stolen property transactions by requiring metal recycling and crafted precious metal dealers to be permitted and to report transactions via a web-based database.

Metal recycling and crafted precious metal businesses provide special opportunities for false reporting, fraud, theft, or related property crimes. Permitting and inspecting provides those with predispositions to commit these crimes with less opportunity to engage in such conduct and to escape detection or prosecution. Therefore, the City has a substantial governmental interest in regulating such businesses for the purpose of protecting victims, recovering stolen goods and reducing metal theft crimes.

Sec. 18-802. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as set forth below:

Applicant means any associate, business owner, director, officer, operator, partner, or person who applies for a metal recycling or crafted precious metal dealer permit under this article.

Building construction materials means air conditioning units, aluminum siding, aluminum wire, copper pipe, electrical supplies, metal doors, metal door frames, metal downspouts, metal gutters, metal window frames, plumbing supplies, tubing, or wiring, and other similar materials except for obsolete, non-regulated materials.

Business day means any calendar day or portion thereof during which the City or permit holder opens and conducts business with the public.

Business owner means (1) a corporation, individual, partnership, or other legal entity that operates or owns a metal recycling entity or (2) a crafted precious metal dealer.

Chief means the chief of the Police Department or designee.

City means the City of Missouri City.

City representative means a person designated by the City for the duties as set forth herein including, but is not limited to, building inspector, code enforcement inspector, fire inspector, or health inspector.

Clear thumbprint impression means a legible impression or recording of the friction ridge detail on the volar pads of the thumb.

Conspicuously displayed means to display in a place so that it is visible to the public or any customer conducting business with the metal recycling entity or crafted precious metal dealer.

Crafted precious metal has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Dealer has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Department means the Development Services Department.

Designated agent means the person to whom any legal notice may be delivered at the business location.

Director means the director of Development Services Department or designee.

Fire chief means the chief of the Fire Department or designee.

Hazardous waste has the meaning as provided by V.T.C.A., Health and Safety Code, ch. 361.

Hold notice means a written notification by the Chief to the permit holder directing the permit holder not to alter, deface, dispose of, melt, process, redeem, remove, return, or sell certain regulated material, regulated metal, or crafted precious metal unless the hold on the item is released in writing by the Chief or a court order.

Location means any building or structure where a business owner conducts business transactions and where regulated materials, regulated metals, or crafted precious metals are stored.

Metal recycling entity has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Minor means any person who is under eighteen (18) years of age.

Motor vehicle has the meaning as provided by V.T.C.A., Transportation Code, §501.002.

Non-repairable motor vehicle has the meaning as provided by V.T.C.A., Transportation Code, §501.091.

On-site representative means a person who conducts the purchasing and selling of regulated material, regulated metal, or crafted precious metal transaction at the permitted location on behalf of the metal recycling or crafted precious metal dealer.

Peace officer has the meaning as provided by V.T.C.A., Code of Criminal Procedure, art. 2.12.

Permit means a written authorization or permission from the City to engage in a business or occupation or in a business transaction which would be unlawful absent such permission.

Permit holder means a person in whose name a permit has been issued under this article.

Person means an agency, association, business trust, corporation, estate, individual, organization, partnership, trust, and any other legal entity.

Personal identification document has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Precious metal has the meaning as provided by V.T.C.A., Texas Occupations Code, ch. 1956.

Purchase means to accept, acquire, barter, buy, exchange, obtain, receive, or trade goods or property in exchange for valuable consideration, or any other form of transaction by which property ownership is acquired for consideration.

Revocation means the withdrawal of authority to act as a metal recycling or crafted precious metal dealer under this article.

Regulated material has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Regulated metal has the meaning as provided by V.T.C.A., Occupations Code, ch. 1956.

Responsible person means a person who is in charge or manages the day-to-day operation where regulated materials, regulated metals, or crafted precious metals are being purchased or sold.

Salvage material means any motor vehicle, non-repairable motor vehicle, salvage motor vehicle, and all their respective parts, scrap, used or obsolete ferrous and nonferrous metals, regulated materials, and regulated metal as defined in this article.

Salvage motor vehicle has the meaning as provided by V.T.C.A., Transportation Code, §501.091.

Sell means to barter, donate, exchange, give, pledge, trade or transfer regulated material, regulated metal, or crafted precious metal to a dealer, or

any other form of transaction by which property ownership is granted for consideration.

Seller means an individual who sells regulated material, regulated metal, or crafted precious metal to a dealer, including the person in a purchase transaction who is affirming the legal right of ownership and the right to sign over title to the property offered for sale.

Solid waste has the meaning as provided by the V.T.C.A., Health and Safety Code, ch. 361.

Storage has the meaning as provided by the V.T.C.A., Health and Safety Code, ch. 361.

Temporary dealer means a person who purchases or sells regulated material, regulated metal, or crafted precious metal in the city for a term of less than thirty (30) calendar days.

Virtual storefront means a metal recycling or crafted precious metal dealer that conducts business using an electronic system (e-commerce or e-business) such as electronic mail, internet, mobile devices, social media, or other computer network, facsimile, mail, or telephone.

Waste means rejected, superfluous, or unutilized substances in gaseous, liquid, or solid form resulting from agricultural, domestic, or industrial activities.

Web-based database means an electronic reporting system designated by the Chief that is capable of transmitting information and responding to input on the internet.

Sec. 18-803. Violation and penalty.

(a) Violation. Except as otherwise provided by state law, it shall be unlawful for any person to violate, or to cause, allow or permit another person to violate any provision of this article.

(b) Penalty. Except as otherwise provided by state law, any person who violates, or who causes, allows or permits another person to violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one-hundred dollars (\$100.00) nor more than five-hundred dollars (\$500.00). Each day a person violates, or causes, allows or permits another person to violate any provision of this article shall constitute a separate offense.

(c) Civil Penalty. The City may seek any additional enforcement actions as authorized by state law including civil penalties and injunctive relief under V.T.C.A., Occupations Code, ch. 1956.

(d) A culpable mental state is not required for the commission of an offense under this article and need not be proved.

Sec. 18-804. Exceptions.

This article does not apply to:

(1) Businesses, entities, or activities as set forth in V.T.C.A., Occupations Code §1956.002, §1956.053, §1956.054, §1956.055, §1956.056, §1956.057, §1956.058, §1956.059, §1956.060, and §1956.102; and

(2) The sale of aluminum cans.

Sec. 18-805. Notice.

(a) The City is entitled to rely on the electronic mailing address, facsimile number, and physical mailing address currently on file with the Department for all purposes relating to notification.

(b) The failure to maintain a current electronic mailing address, facsimile number, and physical mailing address with the Department is not a defense to any action based on the applicant's or permit holder's failure to respond.

(c) Service of notice upon the applicant or permit holder is complete and is presumed received upon the date the notice is sent if sent before 5:00 p.m. by electronic mail or facsimile and three (3) days following the date sent if by regular United States postal service.

(d) The City will notify an applicant or permit holder of any permit denial or revocation of a permit by either certified mail, return receipt requested, electronic mail, facsimile, or personal delivery.

DIVISION 2. PERMITS.**Sec. 18-811. Permit required.**

A person may not operate a metal recycling or crafted precious metal business, or engage in the business of purchasing or selling regulated material, regulated metal, or crafted precious metal within the city, including through a virtual storefront, if the business or business operator or owner is located within the city, unless the person has a valid dealer permit issued by the City.

Sec. 18-812. Permit application.

(a) A person who operates a metal recycling or crafted precious metal business, including through a virtual storefront, must apply for a dealer permit on an application form provided by the Department.

(b) A person must be at least eighteen (18) years of age to apply for a dealer permit under this article. An applicant must submit a copy of a valid personal identification document with the application.

(c) The application includes, but is not limited to, the following:

(1) The full name, date of birth, home address, and telephone number of the applicant;

(2) The full name and home address of each business owner and responsible person:

a. If the business owner is a corporation, the full name and home address of each director and officer and each shareholder. If the corporation has more than five (5) shareholders, it must list the full name and home address of at least five (5) major shareholders;

b. If the business owner is a partnership, the full name and home address of each partner and the type of partnership; or

c. If the business owner is an unincorporated association, the full name and home address of each associate and officer of such association;

(3) A valid Texas driver's license or state issued photo identification for each applicant and person listed in subsections (c)(1) and (c)(2) of this section;

(4) Proof of business entity form and current status. Proof, as applicable, includes, but is not limited to:

a. A current and valid Certificate of Registration from the Texas Department of Public Safety (DPS);

b. A current and valid Certificate of Registration from the Office of Consumer Credit Commissioner of the State of Texas (OCCC);

c. A current and valid Certificate of Existence or Certificate of Authority from the Texas Office of the Secretary of State (SOS);

d. A current and valid Certificate of Good Standing from the Texas Comptroller of Public Accounts; and

e. All assumed names used and copies of all filings relating to such names from the county clerk's office;

(5) The applicant's business federal tax identification number;

(6) A brief description of the activity or business to be conducted;

(7) A valid electronic mailing address;

(8) The address of the location where the metal recycling or crafted precious metal dealer will conduct business, and the address of the location where the regulated materials, regulated metals, or crafted precious metals are stored, if the inventories are kept at a different location;

(9) For virtual storefronts, the address of the website where the metal recycling or crafted precious metal dealer will conduct business and the physical address and location where the regulated material, regulated metal, or crafted precious metal will be stored if the metal recycling or crafted precious metal dealer is located within the city;

(10) A current certificate from the county tax assessor-collector reflecting the current tax status for the property to be used in connection with the business. If an applicant has more than one business location, the applicant is required to provide a current certificate for each location that is doing business as a metal recycling or crafted precious metal.

(11) Provide proof that the applicant is not delinquent in his taxes;

(12) Sworn affidavit indicating whether the applicant or business owner

a. Has had a license, registration, or permit to operate a metal recycling or crafted precious metal business revoked by the Texas Department of Public Safety, the Office of Consumer Credit Commissioner of the State of Texas, or a local government; and

b. Has ever been disciplined by any agency that regulates metal recycling or crafted precious metal dealers. If an applicant or business owner has received disciplinary action indicate:

1. The business name and location;
2. The nature of the complaint and violation;
3. The complaint and violation dates;
4. The disciplinary agency; and
5. The penalty imposed and disposition date;

(13) A statement of whether the individual applicant, or any associate, designated agent, director, officer, operator, owner, partner, or responsible person has been arrested, charged, or convicted of any criminal offense in this state or any other state or country. If arrested or jailed for any offense, list the offense, the date of the arrest or confinement, the location, court information including the county and state, the case number, case disposition, and disposition date;

(14) The time period(s) during which the business will be conducted including days and hours of operation;

(15) A designated agent form must be submitted for each location at which the applicant is seeking to conduct business. The designated agent must be a natural

person to whom any legal notice may be delivered. The applicant must provide the full name and physical address for each designated agent;

(16) Any other information which may be requested by the City to fully evaluate and review the application and the potential impact of the proposed business; and

(17) The permit fee.

(d) The applicant must sign the application under oath and swear that he has personal knowledge of the information contained in the application, the information is true and correct, and that he has read the provisions of this article.

Sec. 18-813. Additional application requirement for metal recycling entity.

An application for a metal recycling entity must also include:

(1) A copy of the National Pollutant Discharge Elimination System (NPDES) permit or notice of coverage for that location, if required; and

(2) A copy of the approved Texas Commission on Environmental Quality (TCEQ) storm water multi-sector permit and Texas Pollutant Discharge Elimination System (TPDES) permit or verification for that location;

Sec. 18-814. Application for each business location.

(a) An applicant conducting business at more than one location must complete an application and obtain a dealer permit for each location at which the applicant proposes to conduct business.

(b) Each applicant must provide a list of all locations at which the applicant will conduct business as a metal recycling or crafted precious metal dealer.

Sec. 18-815. Temporary dealer permit.

(a) A temporary dealer may not engage in the business of purchasing or selling regulated material, regulated metal, or crafted precious metal, including through a virtual storefront if the business operator or owner is located within the city, unless the temporary dealer has a valid temporary dealer permit issued by the City.

(b) A temporary dealer must apply for a temporary dealer permit on an application form provided by the Department and the applicant shall comply with the permit application requirements under this article.

(c) No more than two (2) temporary dealer permits will be issued to an applicant or business owner in a calendar year.

(d) A temporary dealer permit will only be valid for the business location and for the period listed on the permit, but not to exceed thirty (30) days from the date the temporary dealer permit is issued unless surrendered or revoked sooner.

(e) A temporary dealer whose permit has expired may not act as a metal recycling or crafted precious metal dealer, or engage in the business of purchasing or selling regulated material, regulated metal, or crafted precious metal until the temporary dealer obtains a new temporary dealer permit.

(f) A temporary dealer permit holder is required to comply with this article.

Sec. 18-816. Application review.

(a) Initial review. If an incomplete application is received, notice will be sent to the applicant stating that the application is incomplete and the notice will specify the information required for the application to be deemed complete.

(b) Incomplete application. An applicant has ten (10) calendar days after receiving notice of an incomplete application to provide the required information and submit a complete application. If an applicant fails to furnish the requested documentation within ten (10) calendar days, the application will automatically be deemed withdrawn by the applicant. If an application is considered withdrawn, then the applicant must submit a new permit application under this article.

(c) Complete application. An application is complete when:

(1) The application conforms to this article and code;

(2) All fees have been paid; and

(3) All requests for additional information have been satisfied.

(d) Inspection. A city representative may inspect a metal recycling or crafted precious metal business for code compliance prior to the City issuing a permit.

Sec. 18-817. Fees.

(a) The fees and charges under this article shall be established by a resolution of the City Council of the City.

(b) No application or form will be processed until the required fees are tendered to the City. Fees are nonrefundable, nontransferable, and not prorated.

(c) The City shall charge a fee for issuing a duplicate permit for one that is destroyed, lost, or mutilated.

Sec. 18-818. Permit issuance.

The City will issue a dealer permit or temporary dealer permit to an applicant who has complied with all the requirements unless grounds for denial exist under this article.

Sec. 18-819. Denial of permit.

(a) The City may deny an application for a dealer permit or temporary dealer permit if:

- (1) The applicant attempts to obtain a dealer permit or temporary dealer permit by means of fraud, misrepresentation, or concealment of a material fact;
- (2) The applicant assigned, bartered, sold or traded, or offered to assign, barter, sell, or trade a license, dealer permit, or temporary dealer permit in violation of local, state or federal law within the last five (5) years;
- (3) The applicant has had a metal recycling or crafted precious metal dealer permit or temporary dealer permit suspended or revoked by the state or local government within the last five (5) years;
- (4) The applicant or applicant's spouse is overdue in payment of fees, fines, penalties, or taxes assessed against or imposed upon the applicant or applicant's spouse by the City;
- (5) The applicant has not obtained a certificate of occupancy for the premises in which the applicant intends on doing business, except for a virtual storefront;
- (6) The applicant has not obtained or provided Certificates of Registration from the Texas Department of Public Safety and the Office of Consumer Credit Commissioner of the State of Texas, a Certificate of Existence or Certificate of Authority from the Texas Office of the Secretary of State, a Certificate of Good Standing from the Texas Comptroller of Public Accounts, and proof of all assumed names used and copies of all filings relating to such names from the county clerk's office for the business name and location listed on the application;
- (7) The applicant fails to comply with the permit application requirements under this article;
- (8) The applicant's place of business is not in compliance with the City's ordinances;
- (9) The applicant fails to comply with any local, state or federal law relating to the regulated business; or
- (10) The applicant or business owner is delinquent in property taxes for the location listed on the application.

(b) Notice of a dealer permit or temporary dealer permit denial will be in writing and it will specify the grounds of such denial.

(c) Upon the denial of an application, an applicant may file an appeal in accordance with this article.

Sec. 18-820. Revocation of permit.

(a) The City may revoke a dealer permit or temporary dealer permit issued under the provision of this article if:

- (1) A permit holder commits fraud, misrepresentation or provides false statement in the application for permit;
- (2) A permit holder commits fraud, misrepresentation or provides false statement in the course of carrying on his business;
- (3) A permit holder violates any provision of this article or V.T.C.A., Occupations Code, ch. 1956;
- (4) A permit holder fails to comply with any local, state or federal law relating to the regulated business; or
- (5) A dealer permit or temporary dealer permit was issued as a result of error.

(b) Notice of a dealer permit or temporary dealer permit revocation will be in writing and it will specify the grounds for such revocation.

(c) Upon receiving notice of revocation, the permit holder shall immediately surrender the dealer permit or temporary dealer permit to the City and shall immediately cease business operations at the permitted location unless the permit holder files an appeal.

Sec. 18-821. Permit after revocation.

A person whose dealer permit or temporary dealer permit has been revoked may not reapply for a new dealer permit or temporary dealer permit for at least five (5) years from the date of revocation.

Sec. 18-822. Term of a dealer permit.

(a) A dealer permit will be valid from the date the permit is issued through December 31 of the year the permit is issued unless surrendered or revoked sooner. The dealer permit will only be valid for the business name and location for which it is issued and it will become void if the permit holder or location is changed.

(b) A permit holder whose dealer permit has expired may not act as a metal recycling or crafted precious metal dealer, or engage in the business of purchasing or selling regulated material, regulated metal, or crafted precious metal until the dealer permit is renewed.

(c) If a permit holder fails to renew the dealer permit before January 1 of each year, then the dealer permit will no longer be considered effective or valid and the person must cease operation.

Sec. 18-823. Renewal of permit.

(a) To renew a dealer permit or temporary dealer permit, a permit holder must submit a permit application in the manner prescribed by the Department and pay the required permit fee.

(b) A permit holder may not apply to renew a dealer permit more than sixty (60) days prior to the expiration date of the current dealer permit period.

Sec. 18-824. Exhibition of permit and notice required.

(a) A permit holder shall conspicuously display the current dealer permit or temporary dealer permit to operate issued by the City at or near the entrance of the premises so that it may be easily viewed by the public at all times.

(b) A permit holder shall conspicuously display and in open view to the public at all times, a notice in two inch lettering that:

- (1) Contains the following or similar language approved by the Chief: "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL, REGULATED METAL, OR CRAFTED PRECIOUS METAL MUST PRESENT A PERSONAL IDENTIFICATION DOCUMENT AND WRITTEN PROOF OF OWNERSHIP AS REQUIRED BY CITY OF MISSOURI CITY ORDINANCE.";
- (2) Contains the following language: "The issuance of this permit is not an endorsement by the City of Missouri City, and the permit expires December 31 of the year the permit is issued unless the permit expired, revoked, or surrendered sooner. The permitted business is regulated by the City of Missouri City, 1522 Texas Parkway, Missouri City, Texas 77489."; and
- (3) States the regular business hours of operation for the metal recycling or crafted precious metal dealer.

(c) The notice required by this article may be contained on a sign that contains another notice required by state or federal law to be displayed by the permit holder.

(d) A permit holder who conducts business using a virtual storefront shall include on its website:

- (1) A copy of the dealer permit or temporary dealer permit issued by the City or a direct link to a copy of the dealer permit or temporary dealer permit issued by the City; and
- (2) The following information in a prominent and conspicuous location on the website:
 - a. The name of the permitted business followed by the phrase: "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL, REGULATED METAL, OR CRAFTED PRECIOUS METAL MUST PROVIDE A PERSONAL IDENTIFICATION DOCUMENT AND WRITTEN PROOF OF OWNERSHIP AS REQUIRED BY CITY OF MISSOURI CITY ORDINANCE.";
 - b. A statement that "The issuance of this permit is not an endorsement by the City of Missouri City, and the permit expires December 31 of the year the dealer permit is issued unless the permit expired, revoked, or surrendered sooner. The permitted business is regulated by the City of Missouri City, 1522 Texas Parkway, Missouri City, Texas 77489."; and

c. The permit holder's physical address and business location, if different.

(e) A permit holder who conducts business using the United States postal service or a private delivery service shall include:

(1) A copy of the dealer permit or temporary dealer permit in a prominent and conspicuous location within any communication mailed to the public or prospective purchaser or seller; and

(2) The following information in a prominent and conspicuous location within any communication mailed to the public or a prospective purchaser or seller:

a. The name of the permitted business following by the phrase "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL, REGULATED METAL, OR CRAFTED PRECIOUS METAL MUST PROVIDE A PERSONAL IDENTIFICATION DOCUMENT AND WRITTEN PROOF OF OWNERSHIP AS REQUIRED BY CITY OF MISSOURI CITY ORDINANCE.";

b. A statement that "The issuance of this permit is not an endorsement by the City of Missouri City, and the permit expires December 31 of the year the dealer permit is issued unless the permit expired, revoked, or surrendered sooner. The permitted business is regulated by the City of Missouri City, 1522 Texas Parkway, Missouri City, Texas 77489."; and

c. The permit holder's physical address and business location, if different.

(f) A permit holder must provide the permit number on all radio and video advertisements.

Sec. 18-825. No transfer of permit.

A dealer permit or temporary dealer permit issued under this article may not be assigned, sold, or transferred to any person or business entity that is not named or for any location that is not listed on such permit. A permit holder that moves from the permitted location must reapply for a new dealer permit or temporary dealer permit under this article.

Sec. 18-826. Change in ownership.

If the ownership or ownership structure of a metal recycling or crafted precious metal dealer changes, a person must apply for a new dealer permit or temporary dealer permit and pay the required permit fee as prescribed under this article. If the City approves the application, a new dealer permit or temporary dealer permit will be issued and the original dealer permit or temporary dealer permit must be surrendered to the City at the time the new dealer permit or temporary dealer permit is issued to the permit holder.

Sec. 18-827. Change in designated agent.

(a) If the designated agent for the permitted location changes, the permit holder must file a change of designated agent form with the Department within five (5) days from the effective date of the change.

(b) A filing fee will be charged for filing a change of designated agent form if it is not part of a permit application.

Sec. 18-828. Appeals.

(a) An appeal from any act of denial or revocation of a dealer permit or temporary dealer permit shall be filed with the Chief within ten (10) calendar days from the date of the denial or revocation is issued. If a written appeal is not made within ten (10) calendar days, the applicant or permit holder waives his right to an appeal under this article and the City's decision is final.

(b) The appeal shall be made by filing a written statement setting forth the grounds for the appeal with the Chief. The written statement must include a statement whether the person is requesting a hearing.

(c) If a hearing is requested, the Chief will hold a hearing within ten (10) business days after receiving the appeal statement. An appellant's failure to appear at the scheduled hearing will make the City's denial or revocation decision final and conclusive.

(d) If no hearing is requested, the Chief will issue a written decision within ten (10) business days from the receipt of the appeal.

(e) A revoked dealer permit or temporary dealer permit will remain in effect pending the Chief's decision.

(f) The decision and order of the Chief on such appeal shall be final and conclusive.

(g) If the Chief affirms the permit revocation, the permit holder must immediately surrender the dealer permit or temporary dealer permit and cease business operation.

DIVISION 3. INSPECTIONS.

Sec. 18-841. Inspections; access to records; enforcement.

(a) To ensure compliance with this article, the permit holder will allow a peace officer or city representative to inspect and copy, as applicable, during the permit holder's regular business hours:

- (1) Business records required by this article and V.T.C.A., Occupations Code, ch. 1956;
- (2) Digital photographs and video recordings required by this article and V.T.C.A., Occupations Code, ch. 1956;
- (3) Regulated material, regulated metal, or crafted precious metal in the permit holder's possession; and
- (4) The police hold logbook.

(b) The Chief shall have the authority to:

(1) Issue any directives, orders, regulations, rules, or warnings required to carry out the intent and purpose of this article; and

(3) Request and receive any records necessary to establish the premises are covered by a valid dealer permit or temporary dealer permit issued under this article.

(c) Failure to comply with this section may be grounds for revocation of or refusal to issue or renew a dealer permit or temporary dealer permit under this article.

Sec. 18-842. Stock to be open for examination.

(a) To ensure compliance with this article, a permit holder will make his stock of inventory available to any peace officer or city representative for examination during the permit holder's ordinary business hours.

(b) Failure to comply with this section may be grounds for revocation of or the refusal to issue or renew a dealer permit or temporary dealer permit under this article.

Sec. 18-843. Nuisance declared.

Property conditions maintained in violation of city code which impact public health, safety, or welfare, or which deprive neighbors of their safe or peaceful use of nearby properties shall be unlawful and deemed a public nuisance.

DIVISION 4. REGULATIONS.

Sec. 18-851. Hours of operation.

A business regulated by this article may only open for business between the hours of 8:00 a.m. and 8:00 p.m.

Sec. 18-852. Record and reporting requirements.

(a) A permit holder shall keep an accurate record of each item of regulated material, regulated metal, or crafted precious metal accepted for sale at an auction, accepted for sale on consignment, purchased, or sold in the course of the permit holder's business and shall transmit the record to the City via a web-based database and in a form and method designated by the Chief.

(b) The information required to be transmitted by this article must be in English and contain all of the following:

(1) The seller's full name, home address, physical description including date of birth, gender, race, height, and eye color, employment information such as an employer's name, work address and telephone number, and a copy of the seller's current and valid personal identification document;

(2) The permit holder's business name and address;

- (3) The date and time in which the regulated material, regulated metal, or crafted precious metal was purchased;
- (4) An accurate and detailed description of each regulated material, regulated metal, or crafted precious metal purchased during the regular course of business, including any trademarks, identification numbers, serial numbers, model numbers, brand names, other identifying marks or features, or written description made in accordance with the custom or the trade of the commodity type, length, size, weight, and the quantity of regulated material, regulated metal, or crafted precious metal purchased;
- (5) A description of the motor vehicle, trailer, or other mode of transportation in or on which each item purchased was transported to the permit holder, including the color, license plate number, make, model, and the name of the state that issued the license plate;
- (6) Written documentation evidencing that the seller is the legal owner or is lawfully entitled to sell the regulated material, regulated metal, or crafted precious metal, or a signed statement on a form approved by the City that the seller is the legal owner or is lawfully entitled to sell the regulated material, regulated metal, or crafted precious metal;
- (7) A digital photograph of each regulated material, regulated metal, or crafted precious metal purchased by the permit holder during the course of business. Photographs shall clearly depict the item(s) purchased. No more than five (5) pieces of crafted precious metal may be photographed together. Every item must be photographed in a manner in which it can be clearly and easily identified;
- (8) A clear thumbprint impression of the seller of each transaction;
- (9) The individual transaction number assigned by the permit holder to each item purchased;
- (10) The information as required by V.T.C.A., Occupations Code, § 1956.033, if the regulated material or regulated metal includes condensing or evaporator coils for central heating or air conditioning units or insulated communication wire that has been burned wholly or partly to remove the insulation;
- (11) The price paid or other consideration exchanged for the property purchased and the method of payment; and
- (12) The name and signature of the permit holder, its agent, or employee who conducted the transaction.

(c) The information and records required to be transmitted by subsection (b) of this section shall be transmitted in an electronic format to the designated website before the close of each business day on which the permit holder purchased the property.

(d) The permit holder, its agent, or employee shall visually verify the accuracy of the identification presented by the seller at the time of the transaction. A copy of the personal identification document shall be maintained by the permit holder as part of its records and in accordance to this article.

(e) The permit holder shall maintain copies of consecutively numbered receipts provided to the seller of the property. Such receipts shall be dated with the actual date of the applicable transaction and shall list the item(s) purchased.

Sec. 18-853. Restrictions on the sale and purchase of regulated material, regulated metal, and crafted precious metal.

(a) A permit holder, its agent, or employee shall not purchase any regulated material, regulated metal, or crafted precious metal from a seller whom the permit holder, its agent, or employee reasonably believes or suspects to be intoxicated.

(b) A permit holder, its agent, or employee may not purchase regulated material, regulated metal, or crafted precious metal from a seller younger than eighteen (18) years of age unless the minor is accompanied by a parent or guardian, who shall state in writing, that such transaction is taken with such parent or guardian's full knowledge and consent. Both the minor and parent or guardian must present valid official personal identification documents. The permit holder shall retain the statement and legible copy of the personal identification documents with the records required to be kept and make them available for inspection under this article.

(c) A permit holder, its agent, or employee shall not purchase any regulated material, regulated metal, or crafted precious metal as defined under this article without obtaining proof that the seller owns the item by a bill of sale, receipt, or sworn statement that the seller is the owner or that the seller is an employee, agent, or contractor of a business or entity owning the material and the seller is authorized to sell the item on behalf of the business or entity owning the material.

Sec. 18-854. Acceptance of government or utility property.

(a) It shall be unlawful for any permit holder, its agent, or employee to purchase any government-owned property including, but is not limited to, manhole covers, road and bridge guard rails, street light poles and fixtures, street signs, and traffic signals on which words or markings appear to indicate ownership of such item by any governmental entity or public utility company, or which the permit holder, its agent, or employee knows or should reasonably know the property belongs to a governmental entity or public utility company, except where the seller provides:

(1) A written authorization from the governmental entity or utility company that authorizes the seller to sell the item on behalf of the entity or company; or

(2) A valid receipt from the governmental entity or utility company evidencing such entity or company has relinquished ownership of the item.

(b) It shall not be a defense to prosecution that an item of property contains no words or markings indicating ownership if the permit holder who purchased the item knows or

should reasonably have known such item is owned by a governmental entity or a public utility company.

(c) Written authorization and valid receipt from the governmental entity or utility company must be retained with the item for a period as prescribed under this article.

Sec. 18-855. Acceptance of property inscribed with a company name.

(a) It shall be unlawful for a permit holder, its agent, or employee to purchase any item identified as the property of a business entity or company unless the seller provides:

- (1) A valid receipt indicating lawful ownership;
- (2) A signed statement attesting to lawful ownership; or
- (3) A written authorization from the business entity or company to sell the item on such entity's or company's behalf.

(b) Evidence of ownership or written authorization to sell the item must be retained with the item for a period as prescribed under this article.

Sec. 18-856. Acceptance of property sealed or unopened in its original packaging.

(a) It shall be unlawful for any permit holder, its agent, or employee to purchase an item of property sealed or unopened in its original packaging unless the seller presents a receipt or proof of purchase for the item.

(b) Evidence of ownership, proof of purchase, or receipt must be retained with the item for a period as prescribed under this article.

Sec. 18-857. Acceptance of building construction materials.

It is unlawful for a permit holder, its agent, or employee to alter, deface, dismantle, dispose of, purchase, or sell any building construction material it received unless the permit holder, its agent, or employee:

- (1) Records, along with the description of the property, the serial number or other identifying characteristics of each part or piece of the building construction material; and
- (2) Obtains a written signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written signed statement from the lawful owner of the property stating that the seller is authorized to sell such property.

Sec. 18-858. Acceptance of property delivered by shopping cart.

It is unlawful for a permit holder, its agent, or employee to purchase regulated material, regulated metal, or crafted precious metal that is transported by a shopping cart that is marked with the name or other identifying information of a private company, or the permit holder, its agent, or employee knows or should reasonably know that the shopping cart belongs to a private company unless the seller presents to the permit holder, its agent, or

employee a valid receipt from the private company transferring ownership of the shopping cart to the seller.

Sec. 18-859. Report of suspected stolen property.

(a) It shall be the duty of each permit holder, its agent, or employee to immediately report to the Chief any offer to sell an item of regulated material, regulated metal, or crafted precious metal which the permit holder, its agent, or employee has actual knowledge is stolen or should reasonably know is stolen, and the identity or description of the seller or the individual who offers to sell such item.

(b) A permit holder, its agent, or employee shall report to the Chief the purchase of any item of regulated material, regulated metal, or crafted precious metal by the permit holder, its agent, or employee which the permit holder, its agent, or employee determines or reasonably suspects to be stolen and shall furnish information that might be helpful to the Chief in investigating the matter including the identity or description of the seller or the individual who offers to sell such item, his home address, photograph, vehicle information, and the regulated property offered for sale.

Sec. 18-860. Hold notice of stolen property or item under investigation.

(a) When the Chief has a reasonable suspicion to believe that an item of regulated material, regulated metal, or crafted precious metal in the possession of a permit holder is stolen or has had the manufacturer's identification number or any other identifying mark altered, defaced, or removed, the Chief may place a hold notice on the property by issuing a written notice to the permit holder. The hold notice will:

(1) Identify the item of regulated material, regulated metal, or crafted precious metal alleged to be stolen and subject to the hold; and

(2) Inform the permit holder of the restrictions imposed on the regulated material, regulated metal, or crafted precious metal.

(b) Upon receiving the hold notice, a permit holder shall place the item identified in the hold notice in a secure location away from public view and the item shall be clearly marked with the phrase "Police Hold".

(c) The item shall be noted in the police hold logbook and shall be maintained in the same form in which the item was acquired for at least sixty (60) days unless directed otherwise by the Chief or a court order.

Sec. 18-861. Hold period for crafted precious metal dealer.

(a) A permit holder, its agent, or employee may not alter, deface, dispose of, melt, process, redeem, remove, return, or sell the crafted precious metal before the time period prescribed by V.T.C.A., Occupations Code, ch. 1956.

(b) An item of crafted precious metal shall be available for inspection by a peace officer within twenty-four (24) hours of a request for inspection.

Sec. 18-862. Hold period for metal recycling entity.

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(a) A permit holder, its agent, or employee may not alter, deface, dispose of, melt, process, redeem, remove, return, or sell an item of regulated material or regulated metal before the time period prescribed by V.T.C.A., Occupations Code, ch. 1956.

(b) An item of regulated material or regulated metal shall be available for inspection by a peace officer within twenty-four (24) hours of a request for inspection.

Sec. 18-863. Extension of hold period.

To further an investigation, the Chief may extend the hold period by providing a written notice to the permit holder in possession of the property.

Sec. 18-864. Police hold logbook requirements.

(a) It shall be the duty of each permit holder to maintain a police hold logbook. Records from the logbook shall be maintained in accordance with this article.

(b) The logbook shall contain:

(1) A current copy of local, state and federal law regulating metal recycling or crafted precious metal dealers;

(2) A signed statement from each employee acknowledging that he has been provided a copy of such law, has read the law, and understands the law;

(3) A property log form approved by the Chief;

(4) Records of police hold notices; and

(5) Records of properties the permit holder, its agent, or employee believes or suspects to be stolen or are under law enforcement investigation.

Sec. 18-865. Photograph and video recording requirements.

(a) A permit holder, its agent, or employee shall obtain: (1) a clear digital photograph and video recording of the unobstructed face of a purchaser or seller and (2) a digital photograph of the motor vehicle of the seller in which the make, model, and license plate number of the motor vehicle are clearly identifiable.

(b) A permit holder shall preserve the digital photographs and video recordings required by this section for at least one-hundred eighty (180) days after the date of the transaction unless directed otherwise by the Chief or a court order.

(c) The digital photographs or video recordings under this article shall be made available for inspection by a peace officer within twenty-four (24) hours of the transaction.

(d) A permit holder shall conspicuously post a notice on the premises regarding the video recording and photographing of each transaction pursuant to this article.

Sec. 18-866. Preservation of records.

(a) A business regulated under this article shall preserve records required by this article, excluding photographs and video recordings, for a period of three (3) years from the date an item is purchased or until the item is sold, whichever occurs later. The records must be kept in an easily retrievable format and must be available for inspection by a peace officer or city representative within twenty-four (24) hours of the transaction.

(b) In the event there is a conflict between retention periods provided for in this article and retention periods required by state law, the longer retention requirements shall apply.

Sec. 18-867. Address on file.

(a) A permit holder shall provide and maintain on file with the Department the current home address of such permit holder, business address, and business website. The business address must be a physical address where the business is located.

(b) A permit holder shall provide and maintain on file with the Department a current and valid electronic mailing address.

(c) A permit holder shall notify the Department of any changes to his business address, website address, and electronic mailing address by completing a change of address form prior to the effective date of an address change.

Sec. 18-868. Facsimile required.

(a) A permit holder shall maintain at the place of business, or otherwise have immediate access to, a facsimile or other equipment of similar function on which notifications relating to regulated material, regulated metal, or crafted precious metal property may be expeditiously received from the Chief, City, or Department. The equipment must be operable at all times during the permit holder's usual and customary business hours.

(b) A permit holder shall maintain a current facsimile number on file with the Department and shall notify the Department of any changes to the number prior to the effective date of a change to the facsimile number.

Sec. 18-869. Report of any complaint or disciplinary action.

A permit holder shall notify the Chief in writing within ten (10) calendar days from the date in which he receives notice of any complaint or disciplinary action taken against the permit holder.

Sec. 18-870. Emergency contact numbers.

A permit holder shall provide the Chief and the Department with contact information for at least two (2) individuals who may give admittance to the permitted business in case of an emergency.

Sec. 18-871. Outside surface areas and perimeter security for metal recycling entities.

(a) An outside placement, storage, or surface area of a metal recycling entity must be hard surfaced, dust free and designed as not to impede drainage.

(b) A metal recycling entity must be enclosed on all sides, including the front and rear with a wall or screening fence constructed as a barrier to adequately inhibit the migration of rodents and other vectors from the metal recycling entity to an adjacent property. The wall or screening fence required by this subsection (b) must be constructed in accordance with Section 14, Appendix A of this code. In the event there is a conflict between this subsection and Section 14, Appendix A of this code, the more stringent requirements shall apply.

(c) Access gates to the metal recycling entity's premises must not swing outward. Gates must be kept closed and locked when the metal recycling entity is not open for business.

(d) Perimeter security requirements in this section do not apply to metal recycling entity whose business is conducted solely within a completely enclosed structure.

Sec. 18-872. Manner of storage; waste containment; safety path.

(a) Salvage materials on the premises of a metal recycling entity shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be made at any time by a peace officer or a city representative during regular business hours.

(b) No salvage materials shall be displayed, placed, or stored at any time or in any manner outside of the metal recycling entity's surrounding screen fence or wall.

(c) A metal recycling entity in possession of salvage materials that contain contaminated liquid waste, contaminated material, hazardous material, or special waste including Freon shall remove such waste and material from the salvage material before the salvage material is placed in any outside area owned or operated by a metal recycling entity, and the metal recycling entity shall store or dispose of such material and waste in compliance with all applicable local, state and federal regulations. Disposal of contaminated liquids and materials shall be accomplished by a duly licensed individual or entity. The metal recycling entity shall maintain on premises all records evidencing legal disposal of such contaminated material and waste for a period of three (3) years from the date of disposal.

(d) Storage of liquid waste shall be subject to applicable local, state and federal regulations. In no event shall any metal recycling entity maintain a volume and weight of stored liquid waste inventory in excess of the maximum amounts allowed by the fire code as adopted by the City or applicable state and federal regulations. All liquid waste shall be stored in above-ground containers in accordance with applicable local, state and federal laws and administrative regulations.

(e) It is unlawful for any waste to be held in a container that leaks or that is not in compliance with local, state and federal regulations.

(f) All solid waste, regardless of character or category, shall be contained as not to be released or spilled.

(g) A metal recycling entity shall have a safety path. No salvage materials shall be placed within ten (10) feet of the surrounding wall or screening fence. The fire chief shall oversee the safety path specifications and compliance for each metal recycling entity and may alter

the required number of feet in accordance with the location, size, use, or other characteristics of an individual metal recycling entity.

Sec. 18-873. Rodent and vector control of metal recycling entities.

(a) A metal recycling entity shall have a rodent and vector extermination treatment of the entire premises at least once every ninety (90) days or more frequently as needed.

(b) Upon the City's inspection of the metal recycling entity, a permit holder shall provide the city representative with documentation of rodent and vector extermination treatment to prove that such extermination procedure has occurred within the preceding one-hundred eighty (180) days and that the permit holder has an on-going program for the observation, determination, and control of rodents and vectors. Documentation includes a service contract with a recognized and licensed pest control contractor, an invoice from such contractor, and a receipt for payment for services."

Section 3. *Repeal.* Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 4. *Penalty.* Any person who violates, or any person who causes, allows or permits another person to violate any provision of this Ordinance, that is not otherwise punishable pursuant to V.T.C.A., Texas Occupations Code, Ch. 1956, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one-hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

Section 5. *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, whether there be one or more such parts.

PASSED AND APPROVED on first reading this ____ day of _____, 2014.

PASSED, APPROVED and ADOPTED on second and final reading this ____ day of _____, 2014.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney



Council Agenda Item Cover Memo

January 6, 2014

To: Mayor and City Council
Agenda Item: 11(a) Consider a resolution supporting the Brazos River Authority application for the lower Brazos River Basin Floodplain Protection Planning study grant
Submitted by: Jing J. Chen, PE, CFM Assistant City Engineer

SYNOPSIS

The Brazos River Authority seeks city support for an application for Floodplain Protection Planning study grant funding administered through the Texas Water Development Board. The intent of the grant is to conduct a flood mitigation study within the lower Brazos River basin in order to identify projects or programs to minimize flooding.

BACKGROUND

The Floodplain Protection Planning (FPP) grant is administered through the Texas Water Development Board (TWDB) annually to provide 1:1 matching grants for local and regional entities to pursue planning studies to minimize flood damage within their jurisdictions. For the 2014 grant cycle, the deadline for the grant application is January 22, 2014.

The Brazos River Authority (BRA) has led an effort to coordinate among local entities within the lower Brazos River Basin to garner funding support in order to pursue the TWDB grant. Total cost for the study was projected to be \$2M. Thus far, five entities have pledged financial support to the study – Waller, Austin and Brazoria Counties, Velasco Drainage District and Sugar Land. Total local funding pledged was \$770,000. The BRA and partners are seeking funding and/or in-kind participation and support from the remaining local and regional entities.

If awarded, the grant will be available in the summer 2014 timeframe. The study is projected to take three years to complete. The outcome of the study will be available for public information. It will identify flood mitigation projects along the main stem of Brazos River. Detailed hydrology and hydraulic data will also be available for local jurisdictions and may supplement their existing data on the contributing tributaries to the Brazos. Tributaries will not be part of the proposed BRA study.

FISCAL ANALYSIS

Due to the limited Brazos River river-miles within the city, limited historic flood damages occurring along the main stem of the Brazos within the city limits, and limited contributing areas draining to the Brazos from within the city limits, staff recommends an in-kind, informational level of participation in this study without providing financial support.

SUPPORTING MATERIALS

1. Resolution

STAFF'S RECOMMENDATION

Staff recommends City Council to pass the resolution in support of the proposed BRA Floodplain Protection Planning study.

RESOLUTION NO. R-14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS, EXPRESSING SUPPORT FOR THE BRAZOS RIVER AUTHORITY APPLICATION FOR FLOOD PROTECTION PLANNING GRANT ASSISTANCE FILED WITH THE TEXAS WATER DEVELOPMENT BOARD.

WHEREAS, the Brazos River Authority (BRA), desires to develop a basin-wide Flood Protection Planning Study for the lower Brazos River, understanding that the river and its tributaries drain areas within the City of Missouri City; and

WHEREAS, the City of Missouri City recognizes that the proposed planning does not duplicate existing projects with the exception of updating existing flood protection plans; and

WHEREAS, the BRA has filed an application for flood protection planning assistance with the Texas Water Development Board; and

WHEREAS, BRA will appropriate in-kind and project management services, and, if the grant is awarded, the City of Missouri City desires to provide available information relevant to the Study to the BRA; and

WHEREAS, the City of Missouri City desires to work with BRA to pursue implementation of viable solutions identified through the proposed planning effort and will pursue and identify potential sources of funding for implementation of viable solutions; and

WHEREAS, the City of Missouri City currently participates in the National Flood Insurance Program making flood insurance available for all insurable structures in their respective incorporated and unincorporated areas; now therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The City Council hereby adopts the findings set out in the preamble hereof.

Section 2. City Council of the City of Missouri City authorizes support of the BRA application to the Texas Water Development Board for flood protection planning grant assistance.

Section 3. If the grant is awarded, the City of Missouri City will provide to the BRA available information relevant to the Study.

PASSED, APPROVED and ADOPTED this 6th day of January, 2014.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Gonzalez, City Secretary

Caroline Kelley, City Attorney



**Council Agenda Item
January 6, 2014**

11. RESOLUTIONS

- (b) Consider a resolution authorizing the purchase of golf carts and the execution of a lease agreement for the financing of golf carts.
-

The following items are forthcoming:

Cover memo
Resolution



**Council Agenda Item
January 6, 2014**

12. CITY COUNCIL ANNOUNCEMENTS

Discussion, review, and possible action regarding a meeting or activity of one or more of the following entities (each entity refers to a City of Missouri City entity unless otherwise indicated): Bond Exploratory Committee, Charter Review Commission, Community Development Advisory Committee, Construction Board of Adjustments, Electrical Board, Parks Board, Planning and Zoning Commission, Tax Increment Reinvestment Zone Boards, Fort Bend Chamber of Commerce, Houston-Galveston Area Council, Fort Bend Regional Council, Texas Municipal League, Fort Bend County, Harris County, Gulf Coast Building and Construction Trades Council, Mayor's Youth Commission, Budget & Finance Committee, Fort Bend Leadership Forum, Fort Bend County Drainage District, Communications Committee, Community Development Committee, Infrastructure Services Committee, International & Domestic Economic Development Committee, Long Range Planning Committee, Missouri City Police and Fire Auxiliary, Texas Parkway Alliance, Missouri City Juneteenth Celebration Foundation, Fort Bend County Mayor and Council Association, METRO, Fort Bend Independent School District, Greater Fort Bend Economic Development Coalition, Transportation Policy Council, Technical Advisory Committee, Veterans Memorial Committee, Missouri City Recreation and Leisure Local Government Corporation, Missouri City Development Authority, Greater Houston Partnership.

13. CLOSED EXECUTIVE SESSION

The City Council may go into Executive Session regarding any item posted on the Agenda as authorized by Chapter 551 of the Texas Government Code.

14. RECONVENE

Reconvene into Regular Session and Consider Action, if any, on items discussed in Executive Session.

15. ADJOURN
